

## EXAMINATION PRACTICES

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## EXAMINATION PRACTICES

### 601 What This Chapter Covers

This Chapter sets forth the U.S. Copyright Office's practices and procedures for examining applications for registration of basic **claims**. It does not cover (i) applications for registering a group of related works under the **group registration** regulations; (ii) **renewal registrations**; (iii) **supplementary registrations**; (iv) **GATT registration** for certain **foreign works**; or (v) **preregistrations**.

For examining practices specific to the following types of works or registrations, see the following chapters:

- For **literary works**, see **Chapter 700**.
- For **works of the performing arts**, see **Chapter 800**.
- For visual arts works, see **Chapter 900**.
- For websites and website content, see **Chapter 1000**.
- For the group registration options for certain related works, see **Chapter 1100**.
- For **mask works** and **vessel designs**, see **Chapter 1200** and **Chapter 1300**.
- For supplementary registrations, adverse claims, and other post-registration procedures, see **Chapter 1800**.
- For registration of certain foreign works that may be registered as “**GATT**” works (*i.e.*, works that did not comply with certain formalities in U.S. law prior to March 1, 1989 or **sound recordings fixed** prior to February 15, 1972), see **Chapter 2000**, Section 2007.
- For renewal registrations, see **Chapter 2100**.

### 602 General U.S. Copyright Office Examination Practices

When the U.S. Copyright Office determines that the material deposited constitutes **copyrightable** subject matter and that the other legal and formal requirements of U.S. copyright law have been met, it will register the **claim** and send the **applicant** a **certificate of registration** under the seal of the U.S. Copyright Office. **17 U.S.C. § 410(a)**. The Office has certain general policies it employs when an application is unclear on its face, when there are ambiguities in the application, and/or contradictions between the statements provided in the application and the information contained in the **deposit copy(ies)**, when required information is missing, or when the deposit copy(ies) are incomplete or otherwise fail to meet the applicable requirements. Each of these topics is discussed below.

## 602.1 Completion of the Application

**Applicants** are encouraged to complete applications accurately and completely. Establishing a full, accurate record has a number of benefits: it serves the public interest by creating a more useful public record, it provides potential licensees with more accurate information, and it decreases the cost of copyright litigation by minimizing potential disputes about the work(s) that the registration covers. Where an applicant seeks assistance from the U.S. Copyright Office in preparing an application, the Office will instruct the applicant to complete the application in a clear and accurate manner.

## 602.2 Statutorily Required Information in the Application

**Section 409** of the Copyright Act sets forth the required information for an application for copyright registration:

- The name and address of the **copyright claimant**.
- In the case of a work other than an **anonymous** or **pseudonymous** work, the name and nationality or domicile of the author or authors, and, if one or more of the authors is dead, the dates of their deaths.
- If the work is anonymous or pseudonymous, the nationality or domicile of the author or authors.
- In the case of a **work made for hire**, a statement to this effect (*i.e.*, a “work made for hire statement”).
- If the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright (*i.e.*, a “**transfer statement**”).
- The title of the work, together with any previous or alternative titles under which the work can be identified.
- The year in which creation of the work was completed.
- If the work has been **published**, the date and nation of its first publication.
- In the case of a compilation, or **derivative work**, an identification of any preexisting work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright **claim** being registered.

**17 U.S.C. § 409.**

## 602.3 Requirements for Registration of a Basic Claim

The essential issues that should be resolved before the U.S. Copyright Office may complete a registration include the following:



- Is the subject matter of the work protected by copyright, *i.e.*, does it fall under one or more of the categories of authorship set forth in **Section 102(a)** of the Copyright Act?
- Is the work original, and is the authorship being claimed sufficiently creative to be **copyrightable**?
- Is the work eligible for copyright protection in the United States, *i.e.*, does it satisfy one or more of the requirements set forth in **Chapter 2000**, Section 2003.
- Has the correct author been named (assuming the work is not **anonymous**)?
- Does the **claimant** appear to have the right to **claim** copyright in the work?
- Have the relevant deposit requirements been met?
- Has the required **filing fee** been paid?
- In the case of a work **published** prior to March 1, 1989, have the **notice** requirements been met?
- Is the extent of the claim clear?
- Has the basic information required by **Section 409** of the law been provided?
- Has the application been certified?

The Office will issue a registration if all of these questions are answered in the affirmative, if there are no other issues in the registration materials that might raise questions concerning the claim, and if all of the other legal and formal requirements have been met.

## **602.4 General Standards for Examination of an Application**

### **602.4(A) The Examination Process**

The examination process involves the examination of the application, the deposit copy(ies), the filing fee, all other material that has been submitted to the U.S. Copyright Office, and all communications between the **applicant** and the Office relating to the registration of the **claim**. Together, these materials are collectively known as the “**registration materials**.”

### **602.4(B) Scope of the Examination**

The U.S. Copyright Office examines the registration materials to determine:

- Whether the work constitutes **copyrightable** subject matter; and
- Whether the other legal and formal requirements have been met, including those set forth in the Copyright Act, the U.S. Copyright Office’s regulations, and the *Compendium of U.S. Copyright Office Practices, Third Edition*.

As a general rule, the Office will register a **claim** to copyright where the work contains copyrightable subject matter, where the application is acceptable on its face, and where the facts stated therein are not contradicted by each other or by information in the **deposit copy(ies)** or elsewhere in the registration materials.

#### **602.4(C) Factual Determinations and Administrative Notice**

As a general rule, the U.S. Copyright Office accepts the facts stated in the registration materials, unless they are contradicted by information provided elsewhere in the registration materials or in the Office's records. Knowingly making a false representation of a material fact in an application for copyright registration, or in any written statement filed in connection with an application, is a crime that is punishable under **17 U.S.C. § 506(e)**.

Ordinarily, the Office does not conduct investigations or make findings of fact to confirm the truth of any statement made in an application, such as whether a work has been **published** or not. However, the Office may take administrative notice of facts or matters that are known by the Office or the general public, and may use that knowledge to question an application that appears to contain or be based upon inaccurate or erroneous information.

#### **602.4(D) No Searches or Comparison of Works**

When examining a **claim** to copyright, the U.S. Copyright Office generally does not compare **deposit copy(ies)** to determine whether the work for which registration is sought is substantially similar to another work. Likewise, the Office generally does not conduct searches to determine whether the work has been previously registered.

#### **602.4(E) Duplicate Claims**

As a general rule, the U.S. Copyright Office will not knowingly issue multiple registrations for the same claim, because this would confuse the public record.

If the Office discovers that an applicant submitted a claim that is an exact duplicate of another claim, the registration specialist may communicate with the applicant or may refuse to register the duplicate claim. The status of the prior claim is irrelevant to this determination. The Office will not knowingly register a duplicate claim, regardless of whether the prior claim is pending or whether it has been registered or refused. Likewise, if the Office refused registration and if the applicant submitted a request for reconsideration, the Office will not knowingly register a duplicate claim, regardless of whether the request is pending or whether the refusal has been upheld on substantive or procedural grounds.

**NOTE:** There are three limited exceptions to this rule, which are discussed in **Chapter 500**, Sections **510.1** through **510.3**.

#### **602.5 General Practices for Processing Information Provided in a Paper Application**

To the extent possible, the information provided in a paper application will be scanned and uploaded into the U.S. Copyright Office's electronic registration system. In some cases, it may not

be possible or practical to enter all of the information into the registration record. In all cases, the Office will retain a physical copy or an electronic copy of the paper form.

## 602.6 General Policy Regarding Location of Information

The information that the **applicant** provides to the U.S. Copyright Office should be provided in the appropriate field of the online application or space of the paper application.

If the applicant provides the required information in the application, but the information does not appear in the correct field or space, the **registration specialist** may register the **claim**, provided that the claim is clear. In the alternative, the specialist may correct the application by placing the information in the appropriate field or space, provided it is clear what information belongs in what field or space.

As a general rule, the specialist will not annotate the registration record if information appears in the wrong field or space of the application, but may do so if the required information appears elsewhere in the registration materials (i.e., in the **deposit copy(ies)** but not in the application). For a discussion regarding **annotations**, see Section 604 below.

*Examples:*

- Denero Poe submits an online application for a t-shirt design, which is based on a previous design that was registered in 2004. The registration number for the previous design should be provided in the Previous Registration field, but the applicant provided that information in the New Material Included field. The registration specialist may move the previous registration number to the correct field without communicating with the applicant.
- A paper application is submitted for a work titled *Without a Doubt – The Worst Day of My Life*. In a cover letter the applicant states that the work was **published** on January 26, 2012. The Date of First Publication field has been left blank. If there is no evidence to suggest that the date provided in the cover letter is incorrect, the registration specialist will add that information to the Date of Publication field and will insert an annotation, such as: “Regarding publication: publication date added from cover letter.”

## 602.7 General Practices Regarding Missing Information

Where any required information is missing from the application but is clearly provided in other registration materials, including the **deposit copy(ies)**, an email, cover letter, Note to Copyright Office, a continuation sheet, in an application for a related work which was submitted at the same time, or in other written or oral communications with the **applicant**, the **registration specialist** may include that information in the appropriate field or space of the registration record and may annotate the registration record to indicate the source of the added information. (For a discussion of **annotations**, see Section 604.) If the required information is not clearly provided elsewhere in the registration materials, the registration specialist will communicate with the applicant.

*Examples:*

- Laura Langley submits a paper application for a short story, but does not provide a Year of Completion. In a cover letter Laura explains that she has been

working on the story for 15 years and that she finished it in 2011. The registration specialist will add 2011 to the Year of Completion field and register the **claim** with an annotation, such as: “Regarding year of completion: added by C.O. from cover letter provided by applicant.”

- The Hodge Podge Press submits an online application for a 2009 trade paperback, along with two copies of the work. The application states that the work is unpublished. The registration specialist knows that the work has been distributed to the public, because she has seen the work sold in bookstores. The registration specialist will ask the applicant to provide the date and nation of first authorized **publication**.

## 602.8 General Policy Regarding Extraneous Information

If the information provided in a field or space is clearly extraneous and in no way affects the **claim**, the **registration specialist** may remove that information or may allow it to remain in the registration **record**. Ordinarily, the specialist will not make an **annotation** in the registration record when extraneous information has been removed.

## 602.9 General Policy Regarding Social Security Numbers, Driver’s License Numbers, Credit Card Numbers, and Bank Account Numbers

The **applicant** should not provide any private or confidential information in the application that is not required for registration. The information that is provided in the application may be included in the **certificate of registration** and the **online public record**.

When submitting an online application through the electronic registration system, the applicant may pay the **filing fee** by providing a credit card number or bank account number on the Online Payment screen. The applicant should not provide this type of information in any other portion of the application.

If the **registration specialist** discovers a social security number, driver’s license number, credit card number, or bank account number in the application, he or she will remove that information from the record. If the number is not discovered during the examination process and subsequently appears in the certificate of registration or the online public record, the author, the **claimant**, or their respective representatives may submit a written request to the Office to remove this information from the registration record. See **37 C.F.R. § 201.2(f)**.

For information concerning this procedure and a general discussion of privacy issues, see **Chapter 200**, Section 205.

## 602.10 General Practices Regarding Cataloging Information

If information is missing from the application but is clearly provided elsewhere in the registration materials, the **registration specialist** may add that information to the **online public record** if it is likely that a person searching the U.S. Copyright Office’s records may use that information to locate the work.

*Example:*

- The Office receives an application to register a **claim** in “spoken text,” along with a compact disc containing a **sound recording**. The application names “Florence Markic” as the author of the work, but the cover of the CD identifies the author as “Irene Gregor.” The liner notes explain that Florence Markic is professionally known as Irene Gregor. The **registration specialist** will register the claim without communicating with the **applicant**, and the specialist may add the author’s professional name to the online public record as a searchable term.

## 603 Variances

The U.S. Copyright Office uses the term “variance” to refer to any instance where conflicting information is present in or among the registration materials submitted by the **applicant**. The Office has certain practices for addressing variances, depending on the nature of the conflicting information. There are three general categories of variances: (i) immaterial; (ii) material but resolvable on review of the registration materials as a whole; and (iii) material and requiring communication with the applicant. These categories are described in Sections **603.1** and **603.2** below.

If the **registration specialist** discovers a variance in the registration materials, the actions that he or she may take include: (i) adding a note to the **online public record**; (ii) adding an **annotation** to the **certificate of registration** and the online public record to identify a correction made by the specialist or to clarify information provided elsewhere in the registration materials; (iii) corresponding with the applicant to obtain the correct information; or (iv) disregarding the variance if it is immaterial. These actions and the circumstances when they may be taken are discussed in Sections **603.1** and **603.2** below. For a discussion of the Office’s general policies regarding annotations, see Section **604**.

### 603.1 Immaterial Variances

An immaterial variance is a variance that does not affect the required information that should be included in an application, or any of the essential issues that should be resolved before the U.S. Copyright Office may complete a registration, or where an ordinary person would be able to discern the correct information from the application and would recognize the variance as a mere discrepancy, such as a misspelling or typographical error. As a general rule, the **registration specialist** will disregard immaterial variances and will register the **claim** without annotating or communicating with the **applicant**, but may note the variance in the **online public record**.

*Examples:*

- John Thomas submits an online application for a musical work. The title provided in the application is *Born in the Phillipines*, but the **phonorecords** submitted with the application give the title as *Born in the Philippines*. If the application is otherwise acceptable, the registration specialist will register the claim without communicating with the applicant, but may include the alternative spelling in the online public record in the field marked Title.
- Eva Villagros Gutierrez submits an online application for a screenplay, providing her full name in the Name of Author field. The **deposit copy** identifies the author as “Eva Villagros.” The registration specialist will register the claim

without communicating with the applicant, but may include the shortened form of the author's name in the online public record.

- An online application names “Small World Fabrics Inc.” as the author of a fabric design. The deposit copy identifies the author as “Small World Fabrics Incorporated.” The registration specialist will register the claim without communicating with the applicant or annotating the registration record.

### **603.2 Material Variances Resolvable on Review of the Registration Materials as a Whole**

A material variance is a variance that substantially affects the required information that should be included in the application, or any of the essential issues that should be resolved before the U.S. Copyright Office may complete a registration. In some cases, the inconsistency may be clearly and readily resolved by the **registration specialist** without communicating with the **applicant** based on the specialist's review of the registration materials as a whole. If so, the specialist may correct a material variance by amending the registration record and/or by adding an **annotation** to the registration record.

#### **603.2(A) Material Variances That May Be Resolved by Amending the Registration Record without Annotating or Communicating with the Applicant**

If a material variance may be clearly resolved by reviewing the registration materials as a whole or by reviewing other U.S. Copyright Office records, the **registration specialist** may amend the information in the registration record without communicating with the **applicant**. As a general rule, if all of the required information appears in the application itself (as opposed to elsewhere in the registration materials, including the **deposit copy(ies)**, a cover letter, or the Note to Copyright Office field), the specialist will not annotate the registration record to indicate that the application was revised.

*Examples:*

- The Office receives applications to register ten fabric designs. The application for “Design No. 8” names Chelsea's Fabric Hose as the author and **claimant**. The name Chelsea's Fabric House appears in all the other applications, in the cover letter, and the address where the certificates of registration should be sent. The registration specialist may correct the typographical error in the name given in the application for Design No. 8 without giving an **annotation**.
- Eric Kressler and Carla McCloud submit an application to register a song titled “Friday Afternoon Blues,” naming themselves as co-authors of the work. The deposit copy states that the song was written by “Erica Kessler and Carl MacCloud.” In a cover letter Eric and Carla explain that their names were misprinted on the copy and that the names given on the application are correct. The registration specialist will register the **claim** without annotation, but a note will be added to the **certificate of registration** and the **online public record** indicating the presence of correspondence in the file.

### 603.2(B) Material Variances That May Be Resolved by Amending and Annotating the Registration Record without Communicating with the Applicant

If a material variance may be clearly resolved by reviewing the registration materials as a whole or by reviewing other U.S. Copyright Office records, the **registration specialist** may amend the information in the registration record without communicating with the **applicant**. As a general rule, if the required information does not appear in the application itself, and it is necessary to refer to information found elsewhere in the registration materials, such as the **deposit copy(ies)**, a cover letter, the Note to Copyright Office field, or in other Office records, the registration specialist will annotate the registration record to indicate that the record was amended and will identify the source of the information.

*Example:*

- An online application is submitted for a work titled *Money: For What It's Worth*. The title that appears on the deposit copy indicates that this is the third edition of this work, but the Limitation of Claim field has not been completed. The registration specialist may amend the title field to indicate that this is the third edition of this work, and may add an **annotation**, such as: "Regarding title information: edition statement added by C.O. from the deposit copy."

### 603.2(C) Material Variances Requiring Communication with the Applicant

When the U.S. Copyright Office discovers a material variance in the registration materials, and the correct information cannot be ascertained based on the information provided in the registration materials as a whole or in the Office's records, the **registration specialist** will communicate with the **applicant** and attempt to resolve the discrepancy. (For a discussion of the Office's general policies regarding communications, see Section 605.) In such cases, any changes agreed to by the applicant will be reflected in the registration record, and the corrected information will appear on the **certificate of registration** and in the **online public record**.

*Examples:*

- The title on the **deposit copy** reads *Haiku for the Illiterati –Third Edition*, but the application identifies the title as *Haiku for the Illiterati – Fifth Edition*. The registration specialist will communicate with the applicant to determine whether the applicant intends to register the third or the fifth edition and whether the Office received the correct deposit copy. Depending on the applicant's response, the specialist may amend the registration record to provide relevant information about the third edition or may request appropriate deposit copies for the fifth edition.
- An online application identifies Wilhelmina Puckett as both the author and **claimant** for an atlas, but the deposit copy identifies the author as Cassandra Smyth. The registration specialist will communicate with the applicant to determine if the correct author has been named on the application. The applicant explains that Wilhelmina Puckett hired Cassandra Smyth to create this work. With the applicant's permission, the specialist will check the box indicating that the atlas is a **work made for hire**. The explanation for this change will be included in the registration record.



## 604 Annotations

An **annotation** is a statement that the U.S. Copyright Office adds to the registration record to clarify the facts underlying the **claim** or to identify legal limitations on the claim. The **registration specialist** may annotate an application without communicating with the **applicant** if the annotation does not cast doubt on or raise a question concerning the validity of the registration. As discussed in Sections **604.1** through **604.4**, annotations may be made for a number of different reasons.

An annotation adds substantive information to the registration itself and is considered part of the **certificate of registration**, as compared to a note or change in the registration record that is made by the registration specialist as part of his or her cataloging responsibilities (such as adding a note or an index term to the **online public record**).

### 604.1 Addressing Variances in the Registration Materials

As discussed in Section **603**, the **registration specialist** may annotate the registration record to address certain variances in the application.

*Example:*

- Leslie Steward writes a screenplay titled *High Heels and a Pickup Truck*, which is based on her previously published novel of the same name. In the Note to Copyright Office field Leslie states: “This screenplay is adapted from my novel *High Heels and a Pickup Truck*, published in 2009,” but the Limitation of Claim screen has been left blank. The specialist may insert this statement in the relevant fields on the Limitation of Claim screen, and may add an **annotation** to the registration record, such as: “Regarding limitation of claim: statement added by C.O. from Note to Copyright Office.”

### 604.2 Adding Comments to the Registration Record

An **annotation** may be used to add comments to the registration record. For example, the **registration specialist** may use an annotation to note the presence of an antedated **copyright notice**, to note overlapping **claims**, to note references to previous registrations, to note references to cover letters or other communications from the **applicant**, to note grants of special relief, to clarify the nature of the **deposit copy(ies)**, or to identify uncopyrightable elements specifically claimed in the application.

*Example:*

- An online application is submitted for a song that was first **published** in 1997. In the Note to Copyright Office field the applicant explains that the CD is no longer available for sale and the applicant has only one archival copy. The applicant submits a written request for special relief from the deposit copy requirement for a published song. If the Office agrees to accept an mp3 file in lieu of the published CD, the registration specialist will add an annotation to the registration record, such as: “Regarding deposit: Special Relief granted under 37 C.F.R. 202.20(d).”



### 604.3 Adding Missing Information to the Registration Record

As discussed in Section 603.2(B), an **annotation** may be used to explain that required information was missing from the application and that the **registration specialist** obtained that information from elsewhere in the registration materials, such as a cover letter or the **deposit copy(ies)**.

*Example:*

- The registration specialist receives two applications for a children’s book titled *Learn to Box Young*. In both cases, the **applicant** submitted two copies of the book. One application asserts a **claim** in the text by Caleb Rose while the other asserts a claim in the illustrations by Mario Ali. The application for Caleb states that the work was **published** on August 1, 2008, but the application for Mario does not provide a date of publication. The specialist will insert “August 1, 2008” in Mario’s application and will add an annotation, such as: “Regarding publication: publication date added by C.O. from application submitted simultaneously.”

### 604.4 Documenting Communications with the Applicant

In certain appropriate circumstances, the **registration specialist** may use an **annotation** to document that the **applicant** authorized the specialist to amend the registration **record** or to clarify the facts in the record.

*Example:*

- Ralph Carson submits an application for a published work titled “Punish the Producers.” The copyright notice contains multiple year dates, but the applicant failed to complete the Material Excluded field. The registration specialist may communicate with the applicant to determine if the work contains any previously published material. If the work is entirely new, the specialist may add an annotation to the registration record, such as: “Regarding publication information: Multiple year dates in notice. Work is all new, confirmed by phone call with Ralph Carson on February 15, 2012.”

### 604.5 Placement of the Annotation

**Annotations** should be accurate, they should clearly identify information that was provided by the U.S. Copyright Office, they should cite the authority for any amendments or deletions that have been made, and they should identify the general topic or the specific field or space of the registration record that has been annotated (e.g., “Regarding Author Information,” “Regarding Limitation of Claim,” “Regarding Deposit,” etc.).

Annotations appear on the **certificate of registration**, generally under the heading “Copyright Office Notes.” They appear in the **online public record** under the heading “CO Annotation.”

## 604.6 Annotations Are Part of the Registration Record

An **annotation** is part of the registration record and a correct annotation generally will not be removed from the registration record once a registration has been made.

The U.S. Copyright Office will retain supporting documentation for an annotation (or amendment), such as an email, cover letter, fax, or note regarding a phone call. Both the **certificate of registration** and the **online public record** will indicate that correspondence relating to the **claim** is in the file.

## 605 Communications Between the Applicant and the Registration Specialist

Communication between the U.S. Copyright Office and the **applicant** regarding an application may take many different forms. This Section describes the ways in which an applicant may communicate with the Office and the means by which the Office communicates with the applicant in the course of examining an application.

### 605.1 General Policies

*Legal advice not provided.* Communications involving the examination of an application should be limited to issues concerning registration and related matters. The U.S. Copyright Office's staff will not offer legal opinions or advice on other matters, such as the rights of persons in connection with contracts, **infringement** disputes, or matters of a similar nature. **37 C.F.R. § 201.2(a)(3)**. Likewise, the Office's staff will not offer or undertake to resolve disputes concerning conflicting **claims** to copyright. If there is a dispute between two or more parties involving a claim to copyright, it is the responsibility of each party to pursue their claims in an appropriate forum.

*Communications to be clear, concise, and polite.* All communications from the Office should be clear in meaning, concise in statement, and polite in tone. As a general rule, the Office will consider all oral or written communications from the **applicant**, but will not consider or respond to any abusive, offensive, or scurrilous communications directed to the Office or any of its staff. Similarly, the Office's staff will terminate any conversation or interview, if the applicant makes abusive or scurrilous statements or engages in threatening behavior. **37 C.F.R. § 201.2(c)(4)**.

*Business conducted in the English language.* Written communications to the Office should be in English. Communications from the Office are written in English, and as a general rule, oral communications with the Office are conducted in English. In limited circumstances and on special request, the Office may be able to examine applications or respond to communications that are written in languages other than English. The Office may provide this service as a courtesy, but it is under no obligation to do so and may ask the applicant to submit an English translation of statements that appear in the registration materials or in a communication from the applicant before it takes any action.

*Communicating with persons with disabilities.* The Office will make accommodations for persons with disabilities upon request.

## 605.2 Communicating with the U.S. Copyright Office

An **applicant** may communicate with the U.S. Copyright Office by any of the means described in Sections **605.2 (A)** through **605.2(C)**.

When completing an online application, the applicant must ensure that his or her email address or other contact information is entered correctly. When completing a paper application, the applicant must ensure that this information is both correct and legible. In all cases, the applicant must keep this information up-to-date while the claim is pending. If there are any changes, the applicant should notify the Office by contacting the registration specialist assigned to the claim, or by contacting the Public Information Office by phone or by email using the **form** provided on the Office's website.

If the applicant provides an email address in the application, the Office will use that address as the primary means for his or her communication, even if the applicant also provides a telephone number, fax number, or other contact information. The Office cannot verify email addresses provided by applicants, and registration specialists do not receive an error message when they attempt to send an email to an incorrect or invalid address. Therefore, applicants must ensure that their email address have been entered correctly. If an applicant provides an inaccurate or invalid address, the file may be closed for failure to reply to a communication from the registration specialist. When a file is closed, the filing fee will not be refunded and the deposit copy(ies) will not be returned.

### 605.2(A) Note to Copyright Office

When an **applicant** prepares an online application, the applicant may provide additional information that is relevant to the examination process, such as explaining apparent discrepancies in the application or requesting special relief. This information may be provided in the online application in the field marked Note to Copyright Office, which appears on the Certification screen. Currently, the total amount of text that may be provided in this field is limited to 25,000 characters.

The statements provided in the Note to Copyright Office field will not appear on the **certificate of registration** or the **online public record**. The U.S. Copyright Office will maintain a copy of the note in the registration record. If the note contains material information, the specialist may add that information to the registration record with an **annotation**, or may add a note to the certificate of registration and the online public record indicating that there is correspondence in the file.

### 605.2(B) Cover Letters

An **applicant** may submit a cover letter with an application or with the **deposit copy(ies)**. A cover letter may provide additional information that is relevant to the examination process, such as explaining apparent discrepancies in the application or justifying the applicant's request for **special handling**. A cover letter may be submitted with an online application when the deposit copy(ies) are uploaded, provided that the letter and the deposits are submitted as separate files. To submit a cover letter with a paper application, the applicant may attach it to the application.

A cover letter will not be returned to the applicant or attached as an exhibit to the **certificate of registration**. However, the U.S. Copyright Office will retain a copy of the letter in the registration record. If the cover letter contains material information, the specialist may add that information to the registration record with an **annotation**, or may add a note to the certificate of registration and the **online public record** indicating that there is correspondence in the file.

### 605.2(C) Calling or Emailing the U.S. Copyright Office

**Applicants** are strongly encouraged to refer to the *Compendium of U.S. Copyright Office Practices, Third Edition*, and to the circulars and other materials provided on the U.S. Copyright Office's website for information regarding an application. If the applicant still has questions regarding the processes and procedures for preparing or filing an application, the applicant may contact the Public Information Office by phone or by email using the **form** provided on the Office's website. For more information on contacting the Records, Research and Certification section, see **Chapter 2400**, Section 2403.

### 605.3 Communications from the U.S. Copyright Office

The **registration specialist** assigned to the claim will communicate with the **applicant** if he or she has questions regarding the registration materials.

The specialist may communicate by email, phone, fax, or letter. However, if the applicant provided an email address in the application, the specialist will use that address as the primary means for his or her communication.

In all cases, the specialist will provide the applicant with appropriate contact information for responding to his or her communication.

### 605.3(A) The U.S. Copyright Office's Email Addresses

When communicating with an applicant by email, the U.S. Copyright Office will use one or more of the email addresses listed below.

Once an application has been filed, the applicant should routinely monitor his or her "in box" for messages sent from these addresses.

When a message arrives in the applicant's in box, it may or may not be accompanied by the label "Copyright Office." The applicant should ensure that the "spam filter" for his or her account does not block messages sent from the email addresses listed below. Likewise, the applicant should monitor his or her "spam," "junk," and/or "trash" folders for messages sent from these addresses.

- **noreply@loc.gov**: When an applicant successfully submits an application and **filing fee** through the electronic registration system, the system will generate an automated message confirming that the application and filing fee were received. If the Office does not receive the **deposit copy(ies)** within ninety days thereafter (either uploaded through the electronic registration system or sent to the Office by mail), the system will generate an automated message notifying the applicant that the deposit has not been received. As the term "no reply" suggests, the

applicant should not reply to these automated messages. The Office will not read or respond to any email that is sent to this address.

- *cot-rc@loc.gov*: When an applicant successfully uploads a deposit copy(ies) through the electronic registration system, the system will generate an automated message confirming that the deposit was received. The applicant should not reply to this automated message. The Office will not read or respond to any email that is sent to this address.
- *cop-ad@loc.gov*: When a registration specialist communicates with an applicant by email, the message will be sent from this address. In all cases, the applicant should respond to the specialist's message by opening the message and selecting the "reply" or "reply all" option. As discussed in Section 605.4, the reply message should include the THREAD ID and case number/service request number that appears in the specialist's message. Doing so will ensure that the response is connected with the appropriate registration record.

### 605.3(B) When the U.S. Copyright Office Will Communicate with the Applicant

Whenever possible the **registration specialist** will examine an application without communicating with the **applicant**. As a general rule, the specialist will communicate with the applicant if he or she discovers that the applicant failed to provide sufficient information in a particular field or space of the application or elsewhere in the registration materials, or if the applicant otherwise failed to meet the registration requirements. For example, the specialist will communicate with the applicant if the application is ambiguous, substantially incomplete, in conflict with other information in the registration materials or the U.S. Copyright Office's records, in conflict with other information that is known to the Office, or indicates that the applicant misunderstands the registration requirements. By contrast, the specialist generally will not communicate with the applicant if he or she determines that the required information is clearly presented elsewhere in the registration materials.

### 605.3(C) Records Concerning U.S. Copyright Office Communications

If the **registration specialist** communicates with the **applicant**, either orally or in writing, the U.S. Copyright Office will retain a copy of the written communication or the specialist's written notes concerning his or her conversation with the applicant. The registration record will indicate that there is correspondence in the file concerning the registration.

When the specialist adds information to or amends information within the registration record based on a communication with the applicant, the specialist will add a note containing the full name of the person who supplied the information, the organization or individual(s) that the person represents (if any), and the date the information was supplied. If the relationship between the person and the organization is clear from the information provided in the application, the name of the organization may be omitted from the note.

### 605.3(D) Communication from the U.S. Copyright Office May Address Multiple Issues

As a general rule, when the **registration specialist** communicates with the **applicant**, he or she may identify all of the issues involving the application or the other registration materials, even if those issues standing alone would not normally prompt a communication from the U.S. Copy-

right Office. In some cases, multiple communications from the specialist may be required. The fact that the specialist did not mention a particular issue in his or her initial communication does not prevent that specialist or another specialist from raising that issue or other issues in a subsequent communication. In some cases, the applicant's response may resolve the issue(s) and no further communication is needed, or conversely the applicant's response may raise other issues that may require additional communication from the specialist.

If the registration specialist discovers similar issues in multiple applications, he or she may discuss those applications in a single communication, instead of issuing a separate communication for each one.

### 605.3(E) Oral Communications

If the **registration specialist** has questions concerning the registration materials, he or she may attempt to resolve the issue by telephone. If so, the specialist will attempt to contact the person specified in the Correspondent field/space of the application using the telephone number provided in the application.

Before speaking with an individual who is not listed in the application, the specialist will confirm that the individual has been authorized to discuss the **claim** by the correspondent and/or the copyright **claimant**.

In all cases, the specialist will document the conversation by adding a note to the registration record identifying the name of the individual that he or she spoke with and the date of the conversation. If the specialist adds information to or amends information within the registration record based on an oral communication, the note should contain a brief summary of what was discussed and a brief explanation for any changes reflected in the registration record. The note should identify the date that the information was provided and the name of the party that the individual represents (if any). If the relationship between the individual and the party is clear from the information provided in the application, the name of the party may be omitted from the note.

A note should document any amendments made to the registration record, and is imperative when the amendment appears to be questionable on its face, but is clearly justified by the information provided in the telephone conversation. The U.S. Copyright Office will retain any such note in the registration record, and the record will indicate that there is correspondence in the file.

In some situations the specialist may ask for written confirmation authorizing the Office to make a change to the registration record, either by email, fax, or letter. The Office will retain this written confirmation, and the registration record will show that there is correspondence in the file.

If the specialist leaves a message on the **applicant's** voicemail or answering machine, but does not receive a response within a reasonable amount of time, the specialist will call again or will follow up with a written communication.

### 605.3(F) Written Communications

The **registration specialist** may communicate with an **applicant** in writing, particularly if the issue is not appropriate for resolution in a telephone conversation.

*Example:*

- An application is submitted for a painting titled “Level One.” The application lists Anthony Muller as the author and Rob Onbeana as the **copyright claimant**, but no **transfer statement** has been provided. The registration specialist may communicate with the applicant in writing to verify that the correct copyright claimant has been named and to determine if Anthony transferred the copyright in the painting to Rob.

Written communications will be sent to the person specified in the Correspondent field/space of the application. A communication may be sent by email, fax, or letter, but if the applicant provided an email address in the application, the specialist will use that address as the primary means for his or her communications.

The specialist will send his or her communication to the email address, fax number, or other address provided in the Correspondent field/space of the application. When completing this portion of the online application, the applicant must enter this information correctly. When completing a paper application, the applicant must ensure that this information is both correct and legible. In all cases, the applicant must keep this information up-to-date while the claim is pending. If there are any changes, the applicant should notify the Office using the procedure specified in Section **605.2**.

#### **605.4 Case Numbers, Service Request Numbers, THREAD-ID Numbers, and Correspondence Identification Numbers**

The U.S. Copyright Office assigns a specific number to each application that it receives, such as “1-929700001.” This number is known as a case number/service request number. The Office uses these numbers to keep track of the **claim** in the electronic registration system.

When a **registration specialist** sends an email concerning an application, the Office will assign a THREAD ID to that communication, such as “THREAD ID: 1-CKF1YO.” When a specialist sends a letter concerning an application, the Office will assign a correspondence identification number to that communication, such as “Correspondence ID: 1-GHKVFR.” This number will appear on the reply sheet that is attached to the letter. The Office uses these numbers to keep track of written correspondence.

If the specialist communicates with the **applicant** by email, the applicant should respond by opening the specialist’s message and selecting the “reply” or “reply all” option. In addition, the applicant should include the case number/service request number and the THREAD ID in the reply message. Doing so will ensure that the response is filed with the appropriate registration record.

If the specialist communicates with the applicant by letter, the applicant may respond by phone, email, fax, or letter. If the applicant responds by email, the applicant should include the case number/service request number and correspondence identification number in the response. If the applicant responds by letter or by fax, the applicant should include the case number/service request number, correspondence identification number, and a copy of the reply sheet in the response.

### 605.5 Applicant's Internal Tracking Number

The **applicant** may assign an internal tracking number to an online application by completing the field marked Applicant's Internal Tracking Number on the Certification screen. Providing a tracking number is optional and this feature is intended solely for the applicant's convenience. The U.S. Copyright Office does not use these numbers to keep track of pending applications or in its communications with applicants.

### 605.6 Deadlines for Responding to Communications from the U.S. Copyright Office

#### 605.6(A) Oral Communications

If the **registration specialist** asks the **applicant** to provide additional information in a telephone conversation, but does not receive a response during the conversation or within a reasonable amount of time thereafter, he or she will send an email, fax, or letter specifying that a phone call was held on a specific date and briefly summarizing the substance of the conversation. If the specialist does not receive a response to his or her written communication, the file will be closed within the time periods discussed in Sections **605.6(B)** through **605.6(D)**.

#### 605.6(B) Email

As a general rule, the deadline for responding to an email from a **registration specialist** is forty-five calendar days. This deadline is calculated from the date the email was sent to the person specified in the Correspondent field/space of the application (or other designated party, if any).

If the specialist does not receive a response to his or her email, the specialist will not follow-up with the applicant unless there is a good reason for doing so.

For a discussion of the deadline for responding to an email requesting the deposit copy(ies), see Section **605.6(C)**.

#### 605.6(C) Email Requests for Deposit Copy(ies)

When an **applicant** successfully submits an application and **filing fee** through the electronic registration system, the system will generate an automated message confirming that the application and filing fee were received.

If the U.S. Copyright Office does not receive the **deposit copy(ies)** within ninety calendar days, the system will generate an automated message notifying the applicant that the deposit copy has not been received. (For more information on Communications from the U.S. Copyright Office, see Section **605.3**.) The applicant should submit the copy(ies) by uploading them through the electronic registration system (provided the copies are not subject to **best edition** requirements), or by sending the copy(ies) to the Office by mail together with the **shipping slip**. For information concerning these procedures, see **Chapter 200**, Section 204.3 and **Chapter 1500**, Section 1508.



The deadline for submitting the deposit copy(ies) is forty-five calendar days. This deadline is calculated from the date that the automated message was sent to the person specified in the Correspondent field/space of the application.

If a **registration specialist** communicates with the applicant by email and asks the applicant to submit the deposit copy(ies), the deadline for responding to that communication is forty-five calendar days. This deadline is calculated from the date the email is sent to the person specified in the Correspondent field/space of the application.

If the specialist does not receive a response to his or her email, the specialist will not follow-up with the applicant unless there is a good reason for doing so.

#### **605.6(D) Letters**

The deadline for responding to a letter from a **registration specialist** is forty-five calendar days. This deadline is calculated from the date set forth in the reply sheet that is enclosed with the letter.

If the specialist does not receive a response to his or her letter, the specialist will not follow-up with the applicant unless there is a good reason for doing so.

#### **605.7 File Closed Following a Failure to Respond to a Written Communication from the U.S. Copyright Office**

When the U.S. Copyright Office communicates with an applicant in writing, the applicant must respond before the deadlines specified in Section **605.6**, depending upon the nature of the communication. The Office may consider and grant a reasonable request for an extension of time if the request is received in writing prior to the original deadline.

As a general rule, the registration specialist will not follow-up with the applicant if the applicant fails to respond in a timely manner. And as a general rule, the specialist will close the file as a “no reply” if the Office does not receive a response to an email or other written communication within the time allowed.

If the applicant wishes to proceed with a claim after the file has been closed, the applicant must re-apply for registration by submitting a new application, **filing fee**, and **deposit copy(ies)**. The **effective date of registration** will be based on the date that the new submission is received by the Office.

When an applicant fails to respond to a written communication, the Office will not inform the applicant that the file has been closed. Likewise, the Office will not refund the filing fee and will not return the deposit copy(ies).

If the applicant uploaded an electronic copy or phonorecord of a work through the electronic registration system, the deposit copy(ies) will remain in the registration record. If the applicant submitted a physical copy or phonorecord of a **published** work, the Library of Congress may select the copy(ies) for its collections. If the Library does not select the work for use in its collection, the deposit copy(ies) may be offered to another agency, library, or nonprofit institution, or they may be retained by the Office for a scheduled period of time.

### 605.8 Procedure for Reopening a Closed Application

If the applicant failed to respond to a written communication from the U.S. Copyright Office in a timely manner, and if the failure was caused by extraordinary circumstances, the Office may, in appropriate cases, grant a request to reopen the file, provided that (i) the request is made in writing and within a reasonable amount of time after the original deadline; (ii) a showing of good cause is made; and (iii) the Office has the **deposit copy(ies)** in its possession, or replacement deposit copy(ies) are submitted with a written declaration confirming that the replacement is identical to the deposit copy(ies) that were submitted with the application, including the **copyright notice** (if appropriate).

By way of example, the Office will not reopen a closed file if the applicant provided an incorrect email address or out-of-date contact information in the application. Likewise, the Office will not reopen a closed file if the applicant failed to monitor his or her “in box” or “spam,” “junk,” or “trash” folders for messages from the Office, or failed to ensure that the “spam filter” for his or her account does not block messages sent from the email addresses listed in Section **605.3(A)**.

A request to reopen should be submitted using the form provided on the Office’s **website**. An appropriate official from the Registration Program will determine whether the Office will reopen the file and will notify the **applicant** in writing of the Office’s decision. The Office will not consider multiple requests to reopen a claim that was closed for failure to respond in a timely manner.

### 605.9 Withdrawing an Application

An **applicant** may submit a request to withdraw a pending application at any time before the U.S. Copyright Office has issued a certificate of registration or has refused to register the **claim**. For information concerning this procedure, see **Chapter 200**, Section 208.

## 606 Warnings

If the U.S. Copyright Office determines that the **deposit copy(ies)** for a registrable work contain material that consists of uncopyrightable subject matter or that other legal or formal requirements have not been met, the Office may register the **claim** without corresponding with the **applicant**. However, the Office may send the applicant a written communication warning that the registration does not extend to the uncopyrightable subject matter or warning that some of the other legal or formal requirements have not been satisfied. Communications will be sent to the person specified in the Correspondent field/space of the application (or other designated party, if any). The **registration specialist** will place a copy of the communication in the registration record, and the **certificate of registration** and the **online public record** will indicate the presence of correspondence in the file.

#### *Examples:*

- A professional graphic artist submitted an application to register a portfolio containing seventy-five logo designs. Some of the designs are familiar symbols, such as a stop sign, a five pointed star, or a happy face. The registration specialist may send a warning advising the applicant that some of the designs within the portfolio are not **copyrightable**.

- Pharaoh Studios submits an application to register an **unpublished collection** containing dozens of rings, earrings, and bracelets. Some of the items in the collection contain a sufficient amount of original authorship in the shape and arrangement of their constituent elements, but most of them do not. The registration specialist may register the claim, but may send a warning advising the applicant that most of the items in the collection do not support an independent claim to copyright.

## 607 Registration Made Under the Rule of Doubt

The U.S. Copyright Office has the exclusive authority to issue certificates of registration establishing the *prima facie* validity of the facts stated in the certificate. **17 U.S.C. § 410(a), (c)**. On occasion, the Office may register a **claim** to copyright, even though the Office has reasonable doubt as to whether the material submitted for registration constitutes **copyrightable** subject matter or whether the other legal and formal requirements of the statute have been met. This practice is known as the Rule of Doubt.

The Rule of Doubt notifies the **claimant**, the courts, and the general public that the Office is unwilling to grant a presumption of validity to certain aspects of the claim. As a general rule, the Office will apply the Rule of Doubt only in the following situations.

The Office may register a claim under the Rule of Doubt if the **registration specialist** is unable to examine the **deposit copy(ies)** to determine if the work contains copyrightable authorship. For example, the Office will apply the Rule of Doubt if the **applicant** submits an application to register a **computer program** with a deposit copy consisting solely of **object code** rather than **source code**. See **37 C.F.R. § 202.20(c)(2)(vii)(B)**. Likewise, the Office may apply the Rule of Doubt at its discretion if the applicant submits a redacted deposit copy under a grant of special relief in order to protect trade secret material that appears in the work. (For a discussion of the procedure for requesting special relief or the practices and procedures for registering a computer program with a deposit copy consisting solely of object code, see **Chapter 1500**, Sections 1508.8 and 1509.1(C)(4)(b).)

In exceptional cases, the Office may apply the Rule of Doubt if the Office has not taken a position on a legal issue that is directly relevant to whether the work constitutes copyrightable subject matter or whether the other legal and formal requirements of the statute have been met. The Office will not register a claim under the Rule of Doubt simply because there is some uncertainty as to how that issue may be decided by a particular court.

In all cases, the Office will add an **annotation** to the **certificate of registration** and the **online public record** indicating that the work was registered under the Rule of Doubt. The Office also may send a letter to the applicant stating the reasons for its decision and a copy of the letter will be placed in the registration record. Both the certificate of registration and the online public record will indicate that correspondence relating to the claim is in the file.

## 608 Refusal to Register

In the event the U.S. Copyright Office determines that the **claim** does not meet certain requirements for registration based on the registration materials submitted, the **registration specialist** will refuse to register the work. A refusal to register the entire work will be made by a written

communication and will be sent to the address provided in the Correspondent field/space of the application. Examples of situations where the Office will refuse to register a claim include:

- The **applicant** has not met the legal requirements for registration (*e.g.*, completed application, complete **filing fee**, complete **deposit copy(ies)**, etc.).
- The applicant has asserted a claim to copyright in a type of work that is not covered by U.S. copyright law. *See* **17 U.S.C. §§ 102(b), 105**.
- The work is not **fixed** in a tangible medium of expression.
- The work lacks human authorship.
- The work was not independently created.
- The work does not contain the minimum level of creative authorship to support a copyright claim.
- The work is in the **public domain**.
- The work is a U.S. **sound recording** that was fixed before February 15, 1972 (*i.e.*, the date U.S. sound recordings became eligible for federal copyright protection).
- The work is an **architectural work** created before December 1, 1990 (*i.e.*, the date architectural works became eligible for federal copyright protection) or the application to register the architectural work does not otherwise meet the requirements set forth in Copyright Office regulations. *See* **37 C.F.R. § 202.11**.
- The work is not eligible for copyright protection in the United States based on the author's citizenship or domicile, based on the nation of first **publication**, or any other factor set forth in **Section 104** of the Copyright Act.
- The work does not meet the eligibility requirements for a particular registration option.
- The applicant is not authorized to register a claim in the work.
- The claimant named in the application is not a proper **copyright claimant**.
- The work unlawfully employs preexisting material that is under copyright protection. **17 U.S.C. § 103(a)**.

If the applicant disagrees with the Office's determination, the applicant may **appeal** that decision within the Office. This is an administrative procedure known as a **request for reconsideration**. For information concerning this procedure, see **Chapter 1700**.

## 609 Identifying the Work That the Applicant Intends to Register

### 609.1 Registration Process Overview

When completing an online application, the **applicant** must provide a “yes” or “no” answer to three questions concerning the work(s) that the applicant intends to register. Based on the responses provided, the electronic registration system will direct the applicant to the Single Application or the Standard Application, which are discussed in more detail below. The questions include:

- Yes or No: Are you registering one work (one song, one poem, one illustration, etc.)? Check “NO” to this question if the work is one of the following: a collection of works (such as: book of poetry, CD of songs and photographs), a collective work, website or database because these works do not qualify for the single form.
- Yes or No: Are you the only author and owner of the work (or the agent of the individual author who is also the only owner)? Check “NO” to this question if the work was created by multiple people, is a “work made for hire,” or if any part of the work was created by or is owned by another person.
- Yes or No: Does the work you are sending contain material created only by this author? Check “NO” to this question if the copy includes content or contributions by anyone else, even if the claim is limited to only the contribution by this author or the material has been licensed, permissioned or transferred to the claimant.

Each of these questions is discussed in Sections **609.1(A)** through **609.1(C)** below.

If the applicant checks all of boxes marked “yes,” the electronic registration system will generate a message marked “Important Notice.” If the work satisfies all the eligibility criteria listed in this message, the applicant should click the button marked “OK.” The electronic registration system will direct the applicant to complete the U.S. Copyright Office’s Single Application. For general information concerning the Single Application, see **Chapter 1400**, Sections 1401.4, 1402.3, and 1402.5.

The Single Application may only be used to register a work that satisfies the criteria listed in the questions above. If the applicant answers “no” in response to any of these questions or if the applicant responds to the Important Message by clicking the button marked “Cancel,” the electronic registration system will direct the applicant to complete the Office’s Standard Application.

**NOTE:** The Single Application is merely an administrative classification that is used for purposes of registration, and does not affect the subject matter of copyright or the exclusive rights in a work. The fact that a work may be registered with the Single Application does not necessarily mean that it constitutes a single work for other purposes under the copyright law.

The Standard Application may be used to register any work that may be submitted through the electronic registration system. For general information concerning the standard application, see **Chapter 1400**, Section 1402.4.

When completing a Single Application, the following phrase will appear at the top of each screen: “Application Format: Single.” When completing a Standard Application, this portion of the application will read: “Application Format: Standard.”

If the applicant attempts to use the Single Application to register a work that does not satisfy the criteria listed in the questions above, the **registration specialist** will communicate with the applicant, which will delay the examination of the application. If the Office determines that the work is not eligible for the Single Application, the applicant will be required to pay an additional **filing fee**, and the Office will assign a later **effective date of registration** to the claim.

See generally **Single Application Option**, 78 Fed. Reg. 38,843 (June 28, 2013).

#### 609.1(A) Question 1: Are You Registering One Work?

If the **applicant** intends to register one work, he or she may be eligible to use the Single Application, provided that the work satisfies the other eligibility requirements for this application. If so, the applicant should check the box marked “yes” that appears next to the question, “Are you registering one work?” The following are representative examples of works that may qualify as one work for purposes of the Single Application:

##### *Literary Works:*

- One poem.
- One short story.
- One essay.

##### *Visual Art Works:*

- One photograph.
- One fabric design.
- One sculpture.
- One piece of jewelry (not a collection or set of multiple jewelry pieces).
- One illustration (not multiple illustrations on the same page).
- One technical drawing of one object.

##### *Dramatic Works, Audiovisual Works, and Motion Pictures:*

- One stage play.
- One screenplay.
- One “selfie video” featuring one person.

##### *Musical Works and Sound Recordings:*

A song and a sound recording are separate works. Therefore, the Single Application can be used to register:

- One song containing music and lyrics.
  - The applicant may submit sheet music to register the music and lyrics of one song if the same individual is the author/owner of both the music and lyrics of the song.
- One sound recording.
  - The applicant may register a sound recording if the same individual is the author/owner of the sound recording, and if that individual is the only performer featured in the recording.

In limited circumstances, a musical work and a sound recording may both be eligible for registration with the Single Application if the following requirements have been met:

- One song consisting of music, lyrics, and sound recording.
  - The applicant must submit a recording of the song, the same individual must be the author/owner of the music, lyrics, and the sound recording, and that individual must be the only performer featured in the recording.
- One musical arrangement and one sound recording.
  - The applicant must submit a recording of the musical arrangement, the same individual must be the author/owner of both the arrangement and the sound recording, and that individual must be the only performer featured in the recording.

If the applicant intends to register more than one work, the applicant should check the box marked “no.” The following are representative examples of works that do *not* qualify as one work for purposes of the Single Application:

- Two poems.
- Two articles.
- Two or more illustrations on a single page.
- Two or more drawings on separate pages.
- A portfolio of photographs.
- A collection or set containing multiple pieces of jewelry.
- Two or more songs.
- A song and liner notes.

- Two or more sound recordings.
- Different versions of a sound recording.
- More than one version of a script or treatment.
- A **collective work**, such as an album, periodical, newspaper, magazine, newsletter, journal, anthology, book of poems or short stories, or any other work that contains a number of separate and independent works.
- Multiple contributions to a collective work.
- An **unpublished collection**. (For a definition and discussion of unpublished collections, see **Chapter 1100**, Section 1106.)
- Two or more works physically bundled together by the claimant for distribution to the public as a single, integrated unit and first published in that integrated unit, such as a board game, a box of greeting cards, a book published with a CD-ROM, a box set of music CDs, or a board game with printed instructions, playing pieces, and a game board. (For a definition and discussion of the unit of publication option, see **Chapter 1100**, Section 1107.)
- Two or more works that may be registered using a **group registration** option. (For a discussion of the procedure for obtaining a group registration, see **Chapter 1100**.)
- A multi-part work, such as a series of books or photographs.
- A website.

Likewise, the applicant should check the box marked “no” if the applicant intends to register the following type of work:

- An architectural work.
- A choreographic work.
- A database.

#### 609.1(B) Question 2: Are You the Only Author and Owner of the Work?

The applicant may be eligible to use the Single Application if the work was created by one individual, if that individual is the sole owner of the copyright in that work, and if the other eligibility requirements have been met. If so, the **applicant** should check the box marked “yes” that appears next to the question, “Are you the only author and owner of the work?”

The following are representative examples of works created and owned by one person that may be eligible for the Single Application:

- One essay written and solely owned by Simone Stucker.



- One children’s book containing text and illustrations created and solely owned by Franklin Hooker.
- One photograph taken and solely owned by Douglas Brewer.
- One sound recording containing music written, recorded, and solely owned by Felicia Driver.
  - **NOTE:** Felicia must be the author/owner of both the music and the sound recording, and she must be the only performer featured in the recording.
- One song containing music and lyrics written and solely owned by Edward Boxer.
  - **NOTE:** If the applicant submits a recording of the song, Edward must be the author/owner of both the song and the sound recording, and he must be the only performer featured in the recording.

If the work was created by two or more individuals or if the work was created as a joint work, the applicant should check the box marked “no.” (For a definition and discussion of joint works, see [Chapter 500](#), Section 505.) The following are representative examples of works created by more than one author that are not eligible for the Single Application:

- One comic book containing text written by one individual and illustrations drawn by another individual.
- One screenplay co-written by two individuals.
- One song containing music written by one individual and lyrics written by another individual.
- Any sound recording created by two or more performers or musicians.
- Any motion picture or other audiovisual work that features directing, editing, writing, or other authorship by more than one person.

Likewise, the applicant should check the “no” box if the work was created by or on behalf of a company, an organization, or any other legal entity or if the work was created as a **work made for hire**. (For a definition and discussion of works made for hire, see [Chapter 500](#), Section 506.)

The following are representative examples of works that are not eligible for the Single Application because they do not qualify as a work created by an individual author:

- One piece of jewelry created by Phoebe Snow Designs, Inc.
- One photograph taken by an employee of Sue Saint Marie Studios.
- One song specially ordered or commissioned by Smooth Ride Music, LLC for use as a contribution to a collective work.

- One videogame created by the employees of the Chessie Katz game development company.

The applicant should check the box marked “no” if the copyright or any of the exclusive rights in the work are owned or co-owned by two or more individuals. The applicant should check “no” if the copyright is owned by a company, an organization, or other legal entity. The applicant should check “no” if the author transferred the copyright or any of the exclusive rights to a third party, either by written agreement or by operation of law. Likewise, the applicant should check “no” if the author is deceased. (For a discussion of copyright ownership and transfers, see Sections 619 and 620.)

The following are representative examples of works that are not eligible for the Single Application because they are owned or co-owned by more than one party, or because the works are not solely owned by the author:

- One stage play co-owned by the composer and the librettist of the work.
- One song containing music written by one individual and lyrics written by another individual.
- One song written by a composer who transferred the copyright to his music publishing company.
- One sound recording containing music written by one individual and performed by another individual.
- One sound recording co-owned by the artists and musicians who performed the work.
- One article written by a freelance writer who assigned the copyright to her closely held company.
- One photograph taken by a photographer who granted the exclusive right of reproduction to a stock photography service and therefore no longer owns all of the rights in the work.
- One treatment written by a screenwriter who gave a motion picture studio the exclusive right to produce his work as a motion picture and therefore no longer owns all of the rights in the work.

**609.1(C) Question 3: Does the Work You Are Sending Contain Material Created Only by This Author?**

An applicant may be eligible for the Single Application if the work was created by one individual, if that individual is the sole author of the material that appears in the work, and if the other eligibility requirements have been met. If so, the applicant should check the box marked “yes” that appears next to the question, “Does the work you are sending contain material created only by this author?”

The following are representative examples of works that may be eligible for the Single Application because they were created solely by one individual:

- One travel book containing text, illustrations, and photographs created by Christopher Wren.
- One song containing music and lyrics created by Danielle Running Horse.
  - **NOTE:** If the applicant submits a recording of the song, Danielle must be the author/owner of both the song and the sound recording, and she must be the only performer featured in the recording.
- A musical work and sound recording created by Alicia Fox.
  - **NOTE:** Alicia must be the sole author/owner of both the sound recording and the musical work, and she must be the only performer featured in the recording.
- One “nature video” containing script, direction, cinematography, and narration by Jonathan Bass.
- A translation by a single author of a work that is in the public domain.

If the work contains material created by two or more authors, the applicant should check the box marked “no,” even if the applicant does not intend to name the other authors in the application and does not intend to claim their contributions in the application.

The following are representative examples of works containing material created by two or more authors that are not eligible for the Single Application:

- A novel written by one individual with an introduction and an afterword written by two other individuals.
- A translation by a different author of a work that is not in the public domain.
- An album containing music, lyrics, liner notes, and sound recordings created by three different individuals.
- A sound recording containing a song written by one individual that was performed by a different individual.
- A musical work created by one individual embodied in a sound recording created by a different author.
- A motion picture that includes directing, editing, writing, or other authorship by more than one person.

## 609.2 Type of Work

The U.S. Copyright Office has specified various administrative classes of works for registration and deposit purposes as authorized pursuant to **Section 408(c)(1)** of the Copyright Act. These classes are:

- **Literary Works.**
- Works of the Visual Arts.
- Works of the Performing Arts.
- **Sound Recordings.**
- **Motion Picture/Audiovisual Works.**
- Single Serial Issues.

**37 C.F.R. § 202.3(b).** These classes or types of work are merely an administrative classification and do not affect the subject matter of copyright or the **exclusive rights** in a work. Nevertheless, the applicant should exercise judgment and care when selecting the Type of Work in the online application. The initial selection may dictate the options for describing the authorship that the applicant intends to register. And it will determine the registration number that the Office ultimately issues. If the applicant chooses the wrong Type of Work or uses the wrong form for certain types of works, the **registration specialist** may change the Type of Work to the appropriate classification without communicating with the applicant.

For works that contain multiple types of authorship, see Section **609.2(C)** below.

### 609.2(A) Online Application

When completing an online application the **applicant** should select the class of work that is most appropriate for the work that the applicant intends to register and the authorship that appears in the work. These classes are listed under a drop down menu marked Type of Work. Once a selection has been made, the system will provide a brief description and representative examples of the types of works that fall within each class.

Once the applicant has selected the most appropriate classification for the work that will be submitted, the applicant must check the box that appears next to the following statement: “Click the box to confirm you have read the above description and selected the most appropriate type of work.” If the applicant fails to check this box the application will not be accepted by the electronic registration system.

Once a selection has been made, the Type of Work field cannot be changed. If the applicant makes a selection that is not appropriate for the work that is submitted, the registration specialist may communicate with the applicant, change the Type of Work field without communicating with the applicant, or refuse to register the work if the application does not state a sufficient basis for registration.

- Select *Literary Work* if the work is a nondramatic literary work, such as fiction, nonfiction, poetry, a textbook, a reference work, a directory, a catalog, advertising copy, a compilation of information, a **computer program**, a textual work made available online, or a **database**. This category may be used to register an individual article or other textual contribution to a serial publication, or an entire issue of a serial that has not been published before.
- Select *Work of the Visual Arts* if the work is a pictorial, graphic, or sculptural work, including a two-dimensional or a three-dimensional work of fine, graphic, or applied art, a photograph, a print, an art reproduction, a map, a technical drawing, or an **architectural work**.
- Select *Work of the Performing Arts* if the work is a musical work (either with or without lyrics), a dramatic work (such as a screenplay, play, or other script), a **pantomime**, or a **choreographic work**.
- Select *Sounding Recording* if the work contains **sound recording** authorship *and* if the applicant intends to register that element of the work (even if the work also contains other types of authorship, such as music or lyrics). Likewise, the applicant should select this option if the applicant intends to register a sound recording and the underlying works embodied in that recording, provided that the claimant owns all of the rights in those works. If the applicant does not intend to register sound recording authorship, the applicant should *not* select this option (even if the work happens to contain one or more sound recordings). Likewise, the applicant should not select this option if the applicant intends to register the sounds accompanying a **motion picture** or other **audiovisual work**.
- Select *Motion Picture/Audiovisual Work* if the work is a feature film, documentary film, animated film, television show, video, **videogame**, or other audiovisual work, such as a slide presentation. Likewise, this option is appropriate if the applicant intends to register the sounds accompanying a motion picture or other audiovisual work.
- Select *Single Serial Issue* if the applicant intends to register a single issue of a serial publication. This category may be used to register a published serial, but may not be used to register an unpublished serial. A serial is a work that is issued in successive parts bearing numerical or chronological designations and is intended to be continued indefinitely. Examples include a single issue of a newspaper, magazine, bulletin, newsletter, annual, journal, and other similar works. Examples of works that do not fall within this category include episodes of a television series, a series of online videos, a collection of musical works, a group of manuscripts, an assortment of poetry, or a set of advertising copies.

The online application for a single serial issue may be used to register the issue as a whole. It also may be used to register the individual contributions that were first published within that issue, provided that (i) the claimant owns the copyright in the individual contributions and the issue as a whole, and (ii) if the contributions have not been previously published or previously registered. In no case may the claimant register a contribution that is in the public domain.

To register an article, photograph, or other contribution that is not owned by the claimant for the issue as a whole, or to register a contribution that was previously published in another medium, the applicant should prepare a separate application for each contribution, and should select the appropriate form of authorship for that work. For example, if the contribution is an article, the applicant should select Literary Work; if the contribution is a photograph, the applicant should select Work of the Visual Arts.

**NOTE:** It is also possible to register a group of **serials** or a group of contributions to a periodical with one application, one **filing fee**, and **deposit copy(ies)**. For a discussion of these **group registration** options, see **Chapter 1100**, Sections 1109 and 1115.

## 609.2(B) Paper Applications

Identifying the type of work that will be submitted to the U.S. Copyright Office is the first step in completing a paper application. The Office has prescribed five basic classes of works that may be registered with a paper application, and each of these classes has its own paper form. The **applicant** should select the form that is most appropriate for the work that the applicant intends to register and the authorship that appears in the work.

- Use *Form TX* if the work is a nondramatic **literary work**, such as fiction, nonfiction, poetry, a textbook, a reference work, a directory, a catalog, advertising copy, a compilation of information, a **computer program**, a textual work made available online, or a **database**. This form may be used to register an individual article or other textual contribution to a serial publication, or an entire issue of a serial that has not been published before.
- Use *Form VA* if the work is a pictorial, graphic, or sculptural work, including a two-dimensional or three-dimensional work of fine, graphic, or applied art, a photograph, a print or art reproduction, a map, a technical drawing, or an **architectural work**.
- Use *Form PA* if the work is a musical work (either with or without lyrics), a dramatic work (such as a screenplay, play or other script), a **pantomime**, a **choreographic work**, or an **audiovisual work** (such as a feature film, documentary film, animated film, television show, video, or **videogame**).
- Use *Form SR* if the applicant intends to register **sound recording** authorship (even if the work contains additional types of authorship, such as music or lyrics). If the applicant does not intend to register a sound recording, Form SR should not be used (even if the work contains one or more sound recordings). Likewise, Form SR is inappropriate if the applicant intends to register the sounds accompanying a **motion picture** or other audiovisual work.
- Use *Form SE* if the applicant intends to register a single issue of a serial **publication** (e.g., a magazine, journal, etc.). This form may be used to register a published serial, but may not be used to register an unpublished serial. For a definition of the term “serial” and representative examples of such works, see Section **609.2(A)**.

Form SE may be used to register the issue as a whole. It also may be used to register the individual contributions, provided that (i) the claimant owns the copyright in the individual contributions and the issue as a whole, and (ii) if the contributions have not been previously published or previously registered. In no case may the claimant register a contribution that is in the public domain.

To register an article, photograph, or other contribution that is not owned by the claimant for the issue as a whole, or to register a contribution that was previously published in another medium, the applicant should prepare a separate application for each contribution using the appropriate form for that type of work. For example, if the contribution is an article, the applicant should use Form TX; if the contribution is an illustration, the applicant should use Form VA.

**NOTE:** It is also possible to register a group of **serials** or a group of contributions to a periodical with one application, one **filing fee**, and **deposit copy(ies)**. For a discussion of these **group registration** options, see **Chapter 1100**, Sections 1109 and 1115.

## 609.2(C) Works Containing Multiple Forms of Authorship

If the work contains more than one type of authorship, the **applicant** should select the type of work or the paper application that corresponds to the predominant form of authorship in that work. For example, if the work is a website that contains a substantial amount of text combined with a few photographs, the applicant should select **Literary Work** (in the case of an online application) or **Form TX** (in the case of a paper application). If the website mostly contains photographs with a small amount of text, the applicant should select Work of the Visual Arts for an online application or **Form VA** for a paper application. If the types of authorship are roughly equal, the applicant may use either option that would be appropriate. However, there is an exception to this rule for **claims** that include any **sound recording** authorship. In this case, the applicant must select Sound Recording (in the case of an online application) or use **Form SR** (in the case of a paper application), regardless of whether sound recording is the predominant form of authorship in the work. See 37 C.F.R. § 202.3(b)(2)(ii)(C).

## 610 Title of the Work

The application for copyright registration must specify the title(s) of the work(s) the **applicant** wishes to register. The application also should include any previous or alternative titles by which the work may be identified. 17 U.S.C. § 409(6). If the work being registered is part of a larger work or a series of works, the applicant may provide the title of the larger work or the title of the series. If the work being registered contains separate and independent works owned by the **claimant** and if those works are included in the **claim**, the applicant is strongly encouraged to provide the titles of those works in the Contents Title(s) field.

The title of the work will appear in the **certificate of registration** under the heading Title of Work, and it will appear in the **online public record** under the heading Application Title. The title that appears on the **deposit copy(ies)** will appear in the online public record under the heading Title. If there is no title on the deposit copy(ies), the title given in the application will appear in the online public record in both the Title field and the Application Title field.

### 610.1 Title Types

When completing an online application, the **applicant** generally may provide five types of titles. These title types are listed on the Title screen under the drop down menu marked Title Type. The options include:

- Title of work being registered.
- Previous or alternative title.
- Title of larger work.
- Contents title(s).

- Series title.

**NOTE:** When completing a Single Application the applicant may provide two types of titles. Specifically, the applicant may provide the title of the work being registered, and if that work was published in a larger work, the applicant also may provide the title of the larger work.

When completing a paper application, the applicant may provide five types of titles. These title types are listed in space 1 of the application. The options include:

- Title of this work (**Forms TX, VA, PA, SR, SE**).
- Title of this serial (Form SE only).
- Previous or alternative title (Forms TX, VA, PA, SR, SE).
- Publication as a contribution/title of collective work (Forms TX and VA only).
- Contents title(s) (Form SR only).

Each of these title types is discussed in Sections **610.2** through **610.5** below.

## **610.2 Title of Work Being Registered / Title of this Work**

When completing an online application, the **applicant** should begin by selecting Title of Work Being Registered and entering the primary title for the work in that field (including any subtitles). If the applicant fails to provide this information, the application will not be accepted by the U.S. Copyright Office's electronic registration system.

**NOTE:** When completing a Single Application the applicant should provide the title of the work in the field marked Title of this work.

If the work contains a number of separate and independent works, such as an anthology, periodical, serial, or the like, and if the applicant intends to register the entire **collective work**, the title for that collective work should be provided as the Title of Work Being Registered.

If the applicant instead intends to register a contribution that has been included in a collective work, such as an article, a photograph, or the like, but does not intend to register the larger work as a whole (for instance, because the **claimant** does not own the copyright in the collective work), the title for the contribution should be provided as the Title of Work Being Registered. In all cases, the applicant should only provide titles for a contribution if the copyright claimant owns all of the rights in that contribution.

If the applicant intends to register a number of works with the **unit of publication** option, the applicant should provide a title for the unit as a whole, as well as the title for each component work that will be submitted for registration. For a discussion of the unit of publication option, see **Chapter 1100**, Section 1107.

If the applicant intends to register a collection of **unpublished** works, the applicant should provide a title for the collection as a whole, as well as a title for each work that is included in



the collection. For a discussion of the procedure for registering an **unpublished collection**, see **Chapter 1100**, Section 1106.

When completing a paper application, the applicant should enter the title of the work in space 1 of the application under the heading Title of This Work. As the name suggests, the Title of This Work is the primary title of the work that the applicant intends to register (including any subtitles). If the applicant fails to provide this information, the application may be questioned, which may delay the examination of the application. **Form SE** also directs the applicant to provide the Title of This Serial. This space does not appear in the online application or other paper applications. As the name suggests, the Title of This Serial is the primary title of the serial that the applicant intends to register (including any subtitles). Additionally, the applicant should provide the volume and number for the specific issue that will be submitted for registration, the issue date that appears on the **deposit copies** (e.g., January 15, 2010; Spring 2012, etc.), and the frequency of **publication** for the specific serial.

*Examples:*

- The applicant intends to register a novel titled *The Sun Also Sets*. The applicant should provide that title as the Title of Work Being Registered.
- The claimant wishes to register a song titled, “Midnight,” which was published in an album titled *All My Blues*. The claimant does not own the copyright in the other songs and did not create the album as a whole. The applicant should provide “Midnight” as the Title of Work Being Registered. (*All My Blues* should be provided in the Title of Larger Work field, as described in Section **610.4(B)** below.)
- The applicant intends to register the episode “Tina Goes Home” from the television series *All My Grandchildren*. The applicant should provide “Tina Goes Home” as the Title of Work Being Registered. (The title of the television series should be provided as the Series Title as described in Section **610.5** below.)
- The applicant intends to register a book titled *Mozart*. The subtitle for the book is *A Heavenly Voice for the Ages*. This is the third book in a series titled *The Great Composers*. The applicant should provide *Mozart: A Heavenly Voice for the Ages* as the Title of Work Being Registered. (The applicant should provide *The Great Composers* as the Series Title, as described in Section **610.5** below.)

### 610.3 Previous or Alternative Title

When completing an online application, the **applicant** should complete the field marked Previous or Alternative Title if the work:

- Was previously **published** under a different title.
- Is known by a different title or by a title that is written in a different language.
- Is likely to be searched in the U.S. Copyright Office’s records under a different title.

When completing a paper application, the applicant should enter these types of titles on space 1 under the heading Previous or Alternative Titles.

As a general rule, a subtitle is not considered a Previous or Alternative Title.

*Examples:*

- An application is submitted for a painting titled “My Old Ohio Home.” The work is commonly known as “Take Me Back To Cincinnati” among art aficionados. The applicant should provide “My Old Ohio Home” as the Title of Work Being Registered and “Take Me Back to Cincinnati” as the Previous or Alternative Title.
- An application is submitted for a novel titled *The Black and the Red*, which has been translated from the French novel, *Le Noir et Le Rouge*. The applicant should provide *The Black and the Red* as the Title of Work Being Registered, and *Le Noir et Le Rouge* as the Previous or Alternative Title.
- An application is submitted for a work with the title *The United States of America! (The Book)* and a subtitle that reads *A Guide to Our Democracy*. The applicant should provide the Title of Work Being Registered as *The United States of America! (The Book): A Guide to Our Democracy*.

#### **610.4 Works Containing Separate and Independent Works: Unpublished Collections, Units of Publication, Collective Works, and Contributions to Collective Works**

In the case of an **unpublished collection**, a **unit of publication**, a **collective work** that contains a number of separate and independent works (such as an anthology that contains a number of poems or a periodical that contains a number of articles and photographs), or a contribution to a collective work, the applicant should complete the field marked Title of Work Being Registered, which is discussed in Section 610.2 above. In addition, the applicant should complete the Contents Title field and/or the Title of Larger Work field. These fields are discussed in Sections 610.4(A) and 610.4(B) below.

##### **610.4(A) Contents Title: Titles of Separate and Independent Works Included in a Larger Work**

If the **applicant** intends to register any of the separate and independent works that appear in a **collective work**, **unit of publication**, or **unpublished collection** the applicant should enter the titles of each contribution in the field marked Contents Title. These titles will appear in the **online public record** and **certificate of registration** under the heading Contents Title. Listing the content titles (*i.e.*, the titles of separate and independent works that are owned by the **copyright claimant**) is beneficial for various reasons: (i) it provides a clear record of what the larger work contains; (ii) it clearly describes what the registration covers; and (iii) it makes these titles accessible as searchable terms in the online public record.

The total number of characters that may be provided in the Title of Work Being Registered field and the number of characters that may be provided in each Contents Title field is limited. Applicants are strongly encouraged to provide one title in the relevant field, then click the Save button, and then repeat this process in order to prevent loss of data due to space limitations.

The **registration specialist** generally will not communicate with the applicant if the titles given in the Title of Work Being Registered field and the Contents Title field are the same, unless it is unclear whether the applicant intends to register the larger work or one of the separate and independent works that appears within the larger work.

*Examples:*

- The applicant intends to register an album published under the title, *Britney Shields: The Debut Album*, as well as the musical works “Young At Last,” “Serenade,” “Dance All Night,” and “Love At First Sight,” which were released on this album. Britney created each of these songs and she produced the album as a whole. To register the album as a whole, the applicant should provide *Britney Shields: The Debut Album* in the Title of Work Being Registered field. To register the songs that appear on this album, the applicant should provide the title of each song in the application. Because the author of the album and the author of the songs are the same, the applicant is strongly encouraged to provide the titles “Young At Last,” “Serenade,” “Dance All Night,” and “Love At First Sight” in the Contents Title field.
- Railroad Publishers is the author of a work titled, *Trackplans and Benchwork*, which contains a dozen articles by Jack Armstrong. Jack assigned the copyright in these articles to the publisher, and the publisher intends to register *Trackplans and Benchwork* and all of the articles that it contains. To register the work as a whole, the applicant should provide *Trackplans and Benchwork* in the Title of Work Being Registered field. In addition, the applicant is strongly encouraged to provide the title of each article in the Contents Title field.
- The applicant intends to register a textbook titled *Practical Physics*. The book contains twelve chapters and all of the chapters are written and owned by the same person. The applicant should provide *Practical Physics* as the Title of work being registered. There is no need to provide the title for each chapter.

**NOTE:** The only paper application that specifically requests contents titles is **Form SR**. Space 1 of this application should be used to list the titles of any separate and independent **sound recordings** contained in the larger work or unpublished collection that the applicant intends to register. In the alternative, the applicant may use one or more continuation sheets submitted on **Form CON** to list the titles of any separate and independent works included in the larger work or unpublished collection. As is true for the online application, the applicant should only provide the titles of the individual sound recordings or other works that are owned by the **copyright claimant**.

#### 610.4(B) Title of Larger Work

If the **applicant** wishes to register a contribution to a larger work, such as an article that has been **published** in a newspaper, or a recording of a song that has been released on an album, the applicant should use the Title of Larger Work field to identify the larger work in which the contribution appears. When completing an online application the applicant should provide any volume number, issue date, or similar designation that may be used to identify the larger work, and, if applicable, the page number(s) within the larger work where the contribution appears.

When completing a Single Application the applicant should select “yes” in response to the question “Does this work appear in a larger work?” and should provide the title of the larger work in the field marked Larger Work. In addition, the applicant should identify the volume, number, and issue of the larger work (if any), and the page(s) where the work appears.

If it appears that the applicant intends to register a separate and independent work that has been included in another work, and if the applicant fails to provide the title of the larger work, the **registration specialist** may add the missing title if it appears in the **deposit copy(ies)** or elsewhere in the registration materials. If the title of the larger work is not specified in the deposit copy(ies) or elsewhere in the registration materials, the registration specialist may communicate with the applicant. Generally, the registration specialist will communicate when it is unclear whether the applicant intends to register the larger work as a whole, or a separate and independent work that appears within the larger work.

*Examples:*

- Melody Meyers submits an application for a song titled “Melody in G,” which was included in an album titled Enchanted Melodies. The rest of the songs on this album are owned by other parties. Enchanted Melodies should be entered as the Title of Larger Work and “Melody in G” should be provided as the Title of Work Being Registered.
- An application is submitted for an article titled “Running a Marathon,” which appeared on pages 45-46 of Field & Track magazine (Vol. 22, April 13, 2004). “Running a Marathon” should be entered as the Title of Work Being Registered, while the Title of Larger Work should be identified as “Field & Track (Volume 22, April 13, 2004, on pages 45-46).”
- Alexandra Rodriguez submits a Form TX to register her story “Why I Live at the A&P,” which was published on pages 238-260 of the anthology Stories by American Women. The title of her story “Why I Live at the A&P” should be entered on space 1, Title of This Work. The title of the anthology should be entered on space 1 under Publication as a Contribution, Title of Collective Work. Alexandra also should give the page numbers 238-260 in the On Pages section of space 1.
- Nikhil Shah is the author of the story “Living on Top of the World,” which appeared on pages 10-20 of *Katmandu Comics* (Vol. 32, No. 28, June 14, 2011). Nikhil provided the title of his story, but failed to identify the larger work where the story appeared. The registration specialist may add the missing information (title of the larger work, volume and issue number, issue date, and page numbers) to the Title of Larger Work field, and may add an annotation, such as: “Regarding title: title of larger work added by Copyright Office from the copy.”

**NOTE:** Space 1 of paper Forms TX and VA state that “If this work was published as a contribution to a periodical, serial, or collection, give the information about the **collective work** in which the contribution appeared.” This space does not appear in the online application or other paper applications. If the applicant wishes to register a contribution to a larger work (but does not intend to register the larger work as a whole), the applicant should enter the title of that contribution in the space marked Title of this work. The title of the periodical, serial, or other collective work

where the applicant's contribution appeared should be entered in the space marked Title of Collective Work.

### 610.5 Series Title

If the **applicant** intends to register an episode or installment from a series of works, the applicant should provide the title of that episode or installment along with the title of the series. The Series Title is the main title by which the series is known.

Specifically, the applicant should list the title of the episode or installment as the Title of Work Being Registered, along with any number or other alphanumeric designation that has been assigned to that episode or installment (e.g., "Episode 217," "Fourth Installment," etc.). The applicant should enter the title of the series as the Series Title.

A registration for a particular episode or installment from a series of works covers the specific episode or installment that has been submitted for registration. The U.S. Copyright Office does not offer "blanket registrations" that cover future episodes or installments in the same series.

As a general rule, it is not possible to register an entire series with one application, because the individual episodes and installments in a series are typically **published** on different dates. Consequently, the **registration specialist** will communicate with the applicant if the applicant provides the title for the entire series as the Title of Work Being Registered, or if it appears that the applicant is attempting to register separately published episodes or installments from a series of works with one application.

#### *Examples:*

- The applicant intends to register one of the episodes from his podcast. The podcast is known as *The Mike O'Leary Show*. The episode in question is titled "Enjoy the Boat." It is the 687th episode of this podcast. The applicant should provide "Enjoy the Boat (Episode 687)" as the Title of Work Being Registered, and *The Mike O'Leary Show* as the Series Title.
- The applicant intends to register the pilot for a television series titled *Star Track*. The pilot is titled "The Synod Syndrome." The applicant should provide "The Synod Syndrome (Pilot)" as the Title of Work Being Registered and *Star Track* as the Series Title.
- The applicant intends to register a book titled *Double Trouble*. This is the 56th book in a series of books for teenage girls known as *Harper Valley High School*. The applicant should provide *Double Trouble, No. 56* as the Title of Work Being Registered and *Harper Valley High School* as the Series Title.
- The applicant submits an application for nine separate books on the planets. The application states that *Space Almanac* is both the Title of Work Being Registered and the Series Title. The application will be questioned if it appears that the nine books were published separately.

## 610.6 Examination Guidelines: Title of Work

As a general rule, the title that is specified in the application will be accepted without question. The **registration specialist** may change or correct any apparent spelling, capitalization, or punctuation mistakes in the title, but only if the misspelling or incorrect use of capital letters or punctuation appears to be unintentional. The specialist will use his or her judgment to determine whether an error was intentional or a typographical mistake.

*Examples:*

- The **applicant** submits an application for a rap song. The title on the online application is given as “Let US LeaVe hiM hEre.” The title will appear in the registration record exactly as it appears on the application.
- The applicant files an application to register a multimedia work. The title listed on the application is *Boook of Jonah*; the title on the copy is *Book of Jonah*. The registration specialist may correct the spelling of the title that appears on the application to conform to the title on the **deposit copy**.

### 610.6(A) Untitled Works

The **applicant** should not provide “Untitled,” “No Title,” “Working Title,” “No title yet,” or the like as the title of the work. It may be extremely difficult to find a work that has been registered under a generic title.

If the work is **unpublished** and if the author has not selected a title for the work as of the date that the application is submitted, the applicant should provide a descriptive title that identifies the author of the work, the general subject matter of the work, the type of work submitted for registration, or any other relevant information that a person searching the U.S. Copyright Office’s records is likely to include in his or her search request.

*Examples:*

- Sculpture of a Green Frog, Preliminary Study in Clay by Quang Ha (Spring 2008).
- Painting on Illustration Board by Imran Latif (2010).
- Photo Taken at Sand Hill Cove, Narragansett, Rhode Island by Ann McKenna (2012).
- Working Title: Zuzu’s Petals.

If the author decides to change the title after the work has been registered, the applicant may file an application on Form CA to reflect the new title in the **online public record**. For guidance on completing Form CA, see **Chapter 1800**, Section 1802.8. If a previously registered, unpublished work is later **published** with a new title, the applicant may choose to reflect the new title by filing an application for a new **basic registration** for the first published edition of the work. (This is permissible even if the published edition is exactly the same as the previously registered, unpublished edition.) For information concerning this practice, see **Chapter 500**, Section 510.1.

**610.6(B) Descriptive Titles That Appear to Be Incorrect**

If the **applicant** provides a descriptive title that does not appear to describe the work that has been submitted for registration (such as “Print No. 1” or “Study in Red” for a painting that is black and white), the **registration specialist** generally will accept the title specified in the application. However, the specialist may communicate with the applicant if there is a substantial variance between the title provided in the application and the title that appears on the **deposit copy(ies)**. For examples of a substantial variance, see Section **610.6(D)(4)**.

**610.6(C) Titles Consisting of Roman Letters and Arabic Numerals**

The U.S. Copyright Office’s electronic registration system only accepts titles consisting of Roman letters and/or Arabic numerals. It does not accept titles consisting of other types of letters, numerals, or characters, such as Cyrillic or Mandarin. Nor does it accept diacritical marks used in Spanish, French, German, or other foreign languages, such as ç, à, ñ, or ü.

The system will accept titles written in a foreign language, provided that the title consists of Roman letters and/or Arabic numerals. The title will appear on both the **certificate of registration** and the **online public record**, but without any diacritical marks.

The Office will accept a title consisting solely of numbers and/or letters, such as “L-1011,” “24601,” or “MX.”

**610.6(D) Title of the Work: Variances****610.6(D)(1) Variances between the Title Provided in the Application and the Title That Appears on the Deposit Copy(ies)**

If there is a significant variance between the title given in the application and the **deposit copy(ies)**, and it is clear that both titles refer to the same work, the registration specialist may add the title that appears on the deposit copy(ies) to the title field of the **online public record** and/or the specialist may add an **annotation** to the registration record, such as: “Regarding title: title on the deposit copy is \_\_\_\_\_.”

The title may be taken from the cover, title page, spine, or any other place where a title may be found. If the deposit copy(ies) are submitted in electronic form, the title may be taken from the file name for the document (excluding extensions indicating the format of the document, such as .doc, .pdf, .mp3, etc.).

*Examples:*

- The title on the deposit copy(ies) reads: *The Quest for Rest Among Insomniacs*. The title given on the application reads: *The Quest for Rest*. The **registration specialist** will register the **claim** without communicating with the **applicant**. The title that appears on the deposit copy(ies) may be added to the title field in the online public record.
- The title on the deposit copy(ies) is *Rest Quest*. The title on the application reads: *The Quest for Rest Among Insomniacs*. The application will be accepted.



The title that appears on the copies will be added to the title field in the on-line public record. In addition, Rest Quest may be added to the registration record with an annotation, such as: “Regarding deposit: title appears on copy as ‘Rest Quest.’”

- The applicant submits a paper application on **Form PA** for an **unpublished** screenplay. The application lists *A Miracle* as the title of the work, but the deposit copy gives the title as *One More Miracle*. The application will be accepted. The title given on the deposit copy will be added to the previous or alternative title field in the online public record. Additionally, *One More Miracle* may be added to the registration record with an annotation.

#### **610.6(D)(2) Title That Appears on the Deposit Copy(ies) is More Complete Than the Title Provided in the Application**

Where the title provided in the application is a generic title, such as “story,” “symphony,” “picture,” or the like, and the title on the **deposit copy(ies)** substantially adds to the identity of the work, the **registration specialist** may add the additional information to the **online public record**.

*Example:*

- The title on the application is “Ballade,” while the title on deposit copies is “Ballade No. 6 in E Minor.” The application will be accepted. The title that appears on the deposit copies may be added to the online public record in the previous or alternative title field.

#### **610.6(D)(3) Edition Number, Version Number, or Other Identifying Information Not Provided**

The **registration specialist** may amend the title provided in the application to indicate that the copy or phonorecord submitted to the U.S. Copyright Office is a specific version or a particular edition of the work, particularly if the **applicant** failed to exclude the prior versions or previous editions from the scope of the **claim**.

*Example:*

- The title on the application is *Applied Genetics*. The deposit copy indicates that this is the second edition of this work. If the applicant expressly limited the claim to the “new and additional text” contained in the second edition, the application will be accepted. If the claim has not been limited to the new material, the specialist may amend the title to read *Applied Genetics (2nd Edition)* and may add an **annotation** to the **certificate of registration**, such as: “Regarding title information: edition statement added by C.O. from copy.”

#### **610.6(D)(4) Substantial Variances Between the Title Provided in the Application and the Title That Appears on the Deposit Copy(ies)**

If there is a substantial variance between the title given in the application and the **deposit copy(ies)** and if the **registration specialist** is unable to determine whether the application and deposit copy(ies) refer to the same work, the specialist will communicate with the **applicant**.



*Examples:*

- The title given in the application is *Davidson's Biology for Preparatory Study*. The title given on the deposit copies is *Poems for Shona and Liletha*. The registration specialist will communicate with the applicant to determine whether the correct deposit copies have been submitted or whether the title field should be revised.
- The title provided in the application is *Ten Frontier Women and the Founding of Carson City*, and the title given on the deposit copies is *Eight Frontier Men and the Founding of Calico*. The registration specialist will communicate with the applicant to determine whether the correct deposit copies have been submitted or whether the title field should be revised.

**611 Year of Completion / Year in Which Creation of This Work Was Completed**

To register a work of authorship with the U.S. Copyright Office, the **applicant** must identify the year that the work was created. **17 U.S.C. § 409(7)**. A work is considered created when it is fixed in a copy or **phonorecord** for the first time. If the work was prepared over a period of time, the portion or portions of the work that existed in a fixed form on a particular date constitute the work that has been created as of that date. **17 U.S.C. § 101** (definition of “created”). The year of creation is particularly important in the case of a **work made for hire**, an **anonymous** work, or a **pseudonymous** work, because this date may be used to calculate the term of the copyright. **17 U.S.C. § 302(c)**.

**611.1 Completing the Application: Year of Completion / Year in Which Creation of this Work Was Completed**

When completing an online application, the **applicant** should identify the year that the work was completed on the Publication/Completion screen in the field marked Year of Completion (Year of Creation). The year of completion must be provided in four numeric digits.

When completing a paper application, the applicant should identify the year that the author completed the work on space 3(a) under the heading Year in Which Creation of This Work was Completed. The specific month and day that the author completed the work need not be provided.

**611.1(A) Year of Completion for an Unpublished Work Created Over a Period of Time**

If the work is **unpublished** and if the author created the work over an extended period of time, the **applicant** should provide the year of completion for the most recent iteration of the work. If the applicant provides a year of completion for each iteration of the work (e.g., a cover letter explaining that the author completed the first draft in 2006, the second draft in 2007, and the final draft in 2008), the **registration specialist** will replace that information with the year of completion for the most recent iteration, and will add an **annotation** to the registration record specifying the source of that information, such as: “Regarding year of completion: corrected by C.O. from cover letter.”

### 611.1(B) Year of Completion for Multiple Versions of the Same Work

If the author created multiple versions of the same work, each version is considered a separate work. **17 U.S.C. § 101** (definition of “created”). As a general rule, if each version has been **published**, the **applicant** must submit a separate application and **filing fee** for each of those versions. See **17 U.S.C. §§ 408(a), 409**. In preparing each application, the applicant should provide the year of completion for the specific version that is being registered.

*Example:*

- An application is submitted for a French **translation** of an English novel. The application states that the work was completed in 2007, but the **deposit copies** state, “English edition published 2007; French translation © 2011.” The **registration specialist** will ask the applicant to provide the year of completion for the French translation.

In some cases it may be possible to register multiple versions of the same work with one application, provided that all of the versions are **unpublished** and the applicant complies with the requirements for registering those versions using the option for **unpublished collections**. In this situation, the applicant should provide the year of completion for the most recent version that is being registered. See **37 C.F.R. § 202.3(b)(4)(ii)**.

*Examples:*

- Raul Hernandez submits an application to register three versions of his unpublished screenplay, which were created in 2009, 2011, and 2012. The applicant provides 2012 as the year of completion. The registration specialist will register the claim with an annotation, such as: “Basis for registration: unpublished collection.”
- A paper application is submitted on **Form TX** for two unpublished poems titled “My First House” and “My First House, Five Years Later.” The applicant provides “2005–2010” as the year of completion. The registration specialist will amend the year of completion to read 2010 and will register the **claim**. In addition, the specialist will add an **annotation**, such as: “Basis for registration: unpublished collection. Regarding year of completion: application states 2005–2010.”

For a general discussion of unpublished collections, see **Chapter 1100**, Section 1106.

### 611.2 Examination Guidelines: Year of Completion / Year in Which Creation of this Work Was Completed

#### 611.2(A) Year of Completion Apparently Incorrect

The **registration specialist** may communicate with the **applicant** if the year of completion is inconsistent with or contradicted by other dates that appear in the registration materials.

For instance, the year of completion cannot be later than the date of **publication** specified in the application. If the date of publication predates the year of completion in an online application, the application will not be accepted by the electronic registration system. If the date of publica-

tion precedes the year of completion in a paper application, the specialist will communicate with the applicant to determine the correct completion and publication dates.

Moreover, the year of completion cannot be later than the date that the application is certified or the date that the application is received in the U.S. Copyright Office. The electronic registration system will not accept an online application if the date of submission precedes the year of completion. If the date of certification or the date of receipt precedes the year of completion in a paper application, the specialist will communicate with the applicant to determine the correct completion date.

If the year of completion specified in the **deposit copy(ies)** is later than the year of completion specified in the application, the specialist may communicate with the applicant to determine the correct date. If the year of completion is clearly provided in the deposit copy(ies) or elsewhere in the registration materials, the specialist may amend the date provided in the application, and may add an **annotation** to the registration **record**, such as: “Regarding year of completion: corrected by C.O. from statement on copy.”

*Examples:*

- An online application states that the author died in 1980, but gives the year of completion as 1982. The registration specialist will ask the applicant if the year of death is correct, and if so, to explain the discrepancy with the year of completion.
- An online application is submitted for a musical work titled “Eau de Joy.” The application states that the work was completed in 2005, but a statement on the **phonorecord** indicates that the work was written for the inauguration of President Obama in 2009. The registration specialist will ask the applicant to verify the year of completion.
- A paper application is certified and submitted on December 31, 2008. The application states that the work was completed in 2009. The registration specialist will communicate with the applicant to determine the correct year of completion.

#### **611.2(B) Year of Completion Omitted**

If the **applicant** fails to provide a year of completion in an online application, the application will not be accepted by the electronic registration system.

As a general rule, if the applicant fails to provide a year of creation in a paper application, the **registration specialist** may communicate with the applicant. If the year of creation is provided elsewhere in the registration materials, the specialist will add the missing information and provide an **annotation** to the registration record, such as: “Regarding year of creation: added by C.O. from cover letter.”

#### **611.2(C) Year of Completion Unknown**

If the **applicant** cannot determine the exact year of completion, the applicant may provide a qualifying statement, such as “approximately,” “on or about,” “on or before,” or the like. In the

case of an online application, this statement may be provided in the Note to Copyright Office field. On a paper application, this statement may be provided on the application itself or in a cover letter. The **registration specialist** will add the statement to the certificate of registration and the online public record with an annotation. In addition, the specialist will add a note to the record indicating that there is correspondence in the file.

## 612 Date of Publication

This Section discusses the U.S. Copyright Office’s practices and procedures regarding the date and nation of first **publication** for a work of authorship (if any).

For a general discussion of publication, see Chapter **1900**.

### 612.1 General Policy

If the work described in the application has been **published**, the **applicant** must specify the date of publication and nation of first publication for that work. **17 U.S.C. § 409(8)**.

### 612.2 What Constitutes Publication?

For purposes of U.S. copyright law, “[p]ublication is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending.” **17 U.S.C. § 101** (definition of “publication”).

For instance, a book is **published** when copies of the work are distributed online or in bookstores. A newspaper is distributed when copies are sold at newsstands or delivered to subscribers’ doorsteps. A song is distributed when print copies or phonorecords are sold (*e.g.*, on sheet music or in mp3 format). Software is distributed when copies are distributed by purchase or license, whether in CD-ROM format or online (provided that the copies are actually downloaded and not merely accessed online). On the other hand, a draft dissertation or other manuscript that is sent to a dozen people for peer review with a note stating that the copy should not be shared with other parties is not considered publication.

Likewise, “offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication.” *Id.* For example, when a **motion picture** distribution company offers copies of a motion picture to movie theaters for public showing in the theater, the movie is published.

“A public performance or display of a work does not of itself constitute publication.” *Id.*

For a general discussion of publication and for specific guidance on determining whether a particular work has been published, see **Chapter 1900**.

### 612.3 Determining whether the Work Is Published or Unpublished

The **applicant** — not the U.S. Copyright Office — must determine whether the work is **published** or **unpublished**. This determination should be based on the facts that exist at the time

the application is filed with the Office, and it should be based on the definition of publication under U.S. copyright law, even if the work was created or published in another country.

As a general rule, the Office will accept the applicant's representation that the work is published or unpublished, unless that statement is implausible or is contradicted by information provided elsewhere in the registration materials or in the Office's records or by information that is known to the **registration specialist**.

Upon request, the registration specialist will provide the applicant with general information about the provisions of the Copyright Act, including the statutory definition of publication, and will explain the relevant practices and procedures for registering a work with the Office. However, the Office will not give specific legal advice on whether a particular work has or has not been published.

#### 612.4 What Is the Date of First Publication?

The date of first publication is the date that **copies** or **phonorecords** of the work were first **published** with the authorization of the copyright owner.

#### 612.5 What Is the Nation of First Publication?

The nation of first **publication** is the country where copies or phonorecords of the work were first published with the authorization of the copyright owner. The U.S. Copyright Office may use this information to determine whether the work is eligible for copyright protection under U.S. copyright law.

For information concerning the eligibility requirements, see **Chapter 2000**, Section 2003. For information concerning works published in more than one country either simultaneously or within thirty days of each other, see Section **612.7(J)**.

#### 612.6 Completing the Application: Date and Nation of First Publication

##### 612.6(A) Date of First Publication

When completing an online application, the **applicant** should indicate whether the work is **published** or **unpublished**. The applicant will be asked to provide this information on the Publication / Completion screen by selecting "yes" or "no" in the drop down menu marked "Has this work been published?"

If the work has been published, the applicant should provide the specific month, day, and year that **copies** or **phonorecords** of the work were distributed for the first time or were offered to a group of persons for further distribution, public performance, or public display for the first time. This information should be provided in the field marked Date of First Publication.

If the applicant indicates that the work has been published, but fails to provide the specific month, day, and year that publication occurred, the application will be not be accepted by the Office's electronic registration system.

When completing a paper application, the applicant should enter the month, day, and year of first publication on space 3(b) under the heading Date and Nation of First Publication of This Particular Work. If the work has not been published, space 3(b) should be left blank.

#### 612.6(B) Nation of First Publication

When completing an online application the **applicant** should identify the country in which the work was first published by selecting one of the countries listed in the drop down menu marked Nation of first **publication**. If the applicant indicates that the work has been published, but fails to provide a nation of first publication, the application will be not be accepted by the electronic registration system.

For a paper application, the nation of first publication should be listed on space 3(b) in the space marked Nation. If the work has not been published, space 3(b) should be left blank.

#### 612.6(C) ISBN, ISRC, and ISSN Numbers

If the work has been **published** and if an **International Standard Book Number** (“**ISBN**”), **International Standard Recording Code** (“**ISRC**”), or **International Standard Serial Number** (“**ISSN**”) has been assigned to that work, the **applicant** is strongly encouraged to include that information on the Publication / Completion screen of the online application. Specifically, the applicant should select ISBN, ISRC, or ISSN from the drop down menu marked International Standard Number Type and provide the relevant ISBN, ISRC, or ISSN in the field marked International Standard Number. (Forms TX, PA, VA, SR, and SE do not contain a specific space for providing an ISBN, ISSN, or ISRC, but this information may be provided in space 1.)

This information will assist in the identification of a work and may facilitate licensing. However, providing an ISBN, ISRC, or ISSN is optional and an application will be accepted even if this portion of the application is left blank. If the applicant provides an ISBN, ISRC, or ISSN in the application, the U.S. Copyright Office will not review the number to determine if it is correct. The number will appear on the **certificate of registration** and in the **online public record**.

The Office does not assign these numbers to published works. In the United States, ISSNs are administered by the Library of Congress ([www.loc.gov/issn](http://www.loc.gov/issn)), ISBNs are administered by R.R. Bowker LLC ([www.bowker.com](http://www.bowker.com)), and ISRCs are administered by the Recording Industry Association of America ([www.usisrc.org](http://www.usisrc.org)).

#### 612.7 Examination Guidelines: Date and Nation of First Publication

This Section discusses the U.S. Copyright Office’s practices and procedures for examining the Date and Nation of first **publication** field/space in an online application or a paper application.

As a general rule, if the **applicant** fails to complete the Date and Nation of first publication space in a paper application, the work will be registered as an **unpublished** work. The **registration specialist** may communicate with the applicant if information provided elsewhere in the registration materials clearly suggests that publication has occurred or if the specialist knows that the work has been published, such as a well-known novel or film.

### 612.7(A) Claim in a Published Work Contradicted by Information Provided Elsewhere in the Registration Materials

As a general rule, if the **applicant** asserts that the work has been **published**, the work will be registered as a published work, unless the **registration specialist** discovers evidence to the contrary elsewhere in the registration materials.

The specialist may communicate with the applicant if the **deposit copy(ies)** or other information in the registration materials suggests that the work is **unpublished** or if it appears that the applicant provided a date and nation of first publication by mistake. For instance, the specialist may question whether publication has in fact occurred in cases such as the following:

- The applicant gives a publication date on her application and states that she “recited this poem at a poetry slam,” or “played this song at church,” or “performed this dance on cable access television,” or otherwise indicates that the work was “performed” or “broadcast.” In such cases, the registration specialist may communicate with the applicant, and explain that a public performance of a work, in and of itself, does not constitute publication under U.S. copyright law.
- The applicant states that a painting or sculpture was “exhibited in a gallery,” “shown in a museum,” or otherwise indicates that the work was publicly displayed. The registration specialist may communicate with the applicant and explain that a public display, in and of itself, does not constitute publication under U.S. copyright law.

### 612.7(B) Claim in an Unpublished Work Contradicted by Information Provided Elsewhere in the Registration Materials

As a general rule, if the **applicant** affirmatively states that the work is **unpublished** (in the case of an online application) or if the applicant does not complete the date and nation of first publication space (in the case of a paper application), the work will be registered as an unpublished work, unless the information provided elsewhere in the registration materials clearly suggest that publication has occurred.

If the applicant claims that the work is unpublished, the **registration specialist** may communicate with the applicant if the **deposit copy(ies)** or other information in the registration materials suggests that the work has been **published**. For example, the registration specialist may communicate with the applicant in cases such as the following:

The applicant submits two professionally printed **copies** or **phonorecords** of the work and there is other evidence in the registration materials of publication.

- The applicant submits an application to register a serial or a contribution to a serial more than one month after the date that appears in the deposit copies.
- The applicant submits an application to register a jewelry design along with a catalog where the work has been advertised for sale.
- The applicant submits a musical score bearing the legend “for rental only.”

- The applicant submits an application to register multiple episodes of a television series that are known to be in syndication.
- The cover for a compact disc states that the works are “from the album \_\_\_\_\_” and the registration specialist is aware that the album has been advertised in a trade publication.
- The applicant submits an application for a novel and the registration specialist is aware that the work has appeared on a best seller list.
- The applicant submits multiple applications for similar types of works, and provides a date of publication on all but one of the applications.

#### 612.7(C) Nation of Publication Given in a Paper Application without a Date of Publication

If the **applicant** provides a nation of first **publication** on a paper application, but fails to provide a date of first publication, the **registration specialist** may remove the country name from the registration record and register the work as **unpublished** (provided that the work appears to be unpublished). In such cases, the specialist will add an **annotation** to the registration record to document this change.

*Example:*

- The U.S. Copyright Office receives a paper application, along with one copy or phonorecord of the work. The applicant states that the work was published in the United States, but fails to provide a date of publication. The **deposit copy** is handwritten or homemade (such as a CDR deposited for a **claim** in music and **sound recording**). The registration specialist may register the claim without communicating with the applicant. In this situation, the specialist will remove the nation of first publication from the application, and will add an annotation, such as: “Regarding publication: no publication date given; registered as unpublished.”

#### 612.7(D) Extraneous Statements Concerning Publication

As a general rule, there is no need to explain the basis for the **applicant’s** statement that the work is **published** or **unpublished**. The **registration specialist** will not communicate with the applicant if such extraneous statements are provided, unless they are contradicted by information found in the **deposit copy(ies)**, elsewhere in the registration materials, or other materials.

*Examples:*

- An application is submitted for a recording of a live sporting event. In the Note to Copyright Office field the applicant states that the event was “televised on New Year’s Day,” but the applicant does not provide a date or nation of publication. The statement is considered superfluous, because a public performance does not constitute publication under U.S. copyright law.
- The applicant submits an application for a **motion picture** and provides a date of first publication. In the Note to Copyright Office field the applicant states that the work was released in theaters on December 31, 2008. The state-



ment is considered superfluous, because the release of a motion picture to theaters constitutes publication under U.S. copyright law.

- The applicant provides a date of first publication for a musical work. In the Note to Copyright Office field, the applicant explains that he “gave CDs to the audience at my concert.” The statement is considered superfluous, because the distribution of copies constitutes publication.

#### 612.7(E) Month, Day, and Year Required for the Date of First Publication

The **applicant** should provide the month, day, and year that the work was **published** for the first time. The application will not be accepted by the electronic registration system if the applicant selects “yes” in response to the question “has this work been published,” but does not provide the month, day, and year of publication. If the applicant fails to provide the month, day, and year of publication on a paper application, or states that the date of first publication is “unknown,” the **registration specialist** will communicate with the applicant, unless this information is provided elsewhere in the registration materials.

*Examples:*

- An applicant submits a paper application that lists the date of publication as “January, 1980.” The registration specialist will ask the applicant to provide the day that the work was published for the first time.
- An applicant submits a paper application stating that the work was first published in 2013. The registration specialist will ask the applicant to provide the month and day that the work was first published.

#### 612.7(F) Exact Date of Publication Unknown

**Applicants** are strongly encouraged to provide a specific date of first **publication**. If the applicant cannot determine the exact date of first publication, the date may be qualified by “approximately,” “thereabouts,” “on or about,” “on or before,” “not later than,” or similar statements. In the case of an online application, a qualifying statement regarding the date of publication may be provided in the Note to Copyright Office field. In the case of a paper application, this statement may be provided on the application itself or in a cover letter. In such cases, the **registration specialist** will add an **annotation** to the **certificate of registration** and the **online public record**, such as: “Regarding publication: applicant states ‘On or about May 15, 1981.’”

#### 612.7(G) Multiple Dates of Publication

As a general rule, the **applicant** should provide only one date of **publication**, namely, the date that the work was published for the first time. If the applicant provides multiple publication dates, the **registration specialist** will communicate with the applicant to determine the date of first publication for the work described in the application.

By contrast, the applicant may be asked to provide a range of dates when completing an application for a **group registration**, such as a group of published photographs. For a discussion of group registration options, see **Chapter 100**.

**612.7(H) Future Date of Publication**

As a general rule, the date of first **publication** cannot be later than the date that an online application is certified or the date that the application is received by the U.S. Copyright Office. The electronic registration system will not accept an online application where the submission date precedes the date of publication. If the **applicant** provides a future date of publication in a paper application, the **registration specialist** will communicate with the applicant to determine whether the work has been published, and if so, whether publication occurred on the date specified in the application.

*Example:*

- On January 1st, the applicant submits a paper application and states that the work will be published on February 1st. The registration specialist examines the application on June 1st. The specialist will communicate with the applicant to determine if the work was, in fact, published on the date specified in the application.

**612.7(I) Impossible or Impractical Date of Publication**

If the **applicant** provides a date of **publication** that does not exist, or a date that is impossible or impractical based on information provided elsewhere in the registration materials, the **registration specialist** will ask the applicant to explain the discrepancy.

*Examples:*

- The date of first publication given on the application is September 31, 2010.
- The date of first publication is earlier than the year of the author's birth specified in the application.
- The date of first publication is earlier than the year of completion specified in the application.

**612.7(J) Nation of First Publication: Works Published in Multiple Countries**

If the work was first **published** in the United States and another country on the same date, the **applicant** should provide United States as the nation of first publication. Likewise, the applicant should provide United States as the nation of first publication if the work was first published in a foreign country that has entered into a copyright treaty with the United States and if the work was subsequently published in the United States within thirty days thereafter. **17 U.S.C. § 104(b)**.

If the work was first published in two or more countries on the same date or within thirty days of each other, the applicant may provide the name of each country where the work was published. In the case of an online application, the applicant may provide the name of one country on the Publication/Completion screen in the field marked Nation of First Publication. The names of the other countries may be provided in the Note to Copyright Office field. In the case of a paper application the name of each country may be provided on the application itself, on a continuation sheet, or in a cover letter. The names of the additional countries may be added to the registration record with an **annotation**, such as: "Regarding publication: applicant states simultaneously published in Nigeria and Ghana."

If the applicant lists two or more countries in the application, the **registration specialist** will assume that the work was published in each country on the same day or within thirty days of each other, absent conflicting information in the **deposit copy(ies)** or elsewhere in the registration materials.

#### 612.7(K) Nation of First Publication Unclear

If the **applicant** provides the name of a city, state, and country in the Nation of First Publication field/space, the **registration specialist** may include the name of the state and/or country, but will remove the name of the city from the registration record.

If the applicant provides the name of a state, territory, city, or other political subdivision, rather than the name of a country, the application will be accepted if the nation of first **publication** is obvious or if there is another basis for establishing that the work is eligible for copyright protection under U.S. copyright law. For example, the specialist will accept an application if the applicant states that the work was first published in “Quebec” or “Wales,” although “Canada” or the “United Kingdom” would be preferable.

As a general rule, statements made on a paper application, such as “published on the internet” or “published online” are not acceptable. If the applicant identifies the nation of first publication as the “internet,” “online,” the “world wide web,” or the like, the specialist may ask the applicant to provide the name of a specific country from which the work is uploaded. If the work is eligible for copyright protection in the United States based on the information provided in the application, such as the author’s citizenship or domicile, the specialist may register the **claim** without communicating with the applicant. In this situation, the specialist will add an **annotation**, such as: “Regarding publication: application states ‘internet’ as the nation of publication.”

#### 612.7(L) Nation of First Publication Unknown

If the nation of first **publication** is unknown, the **applicant** may select “not known” from the drop down menu of the online application. When completing a paper application, the applicant may leave space 3(b) blank or may state “not known.”

If the applicant fails to identify the nation of first publication, the application may be accepted if that information is provided elsewhere in the registration materials or if the **registration specialist** determines that the work is eligible for copyright protection under U.S. copyright law based on the author’s citizenship or domicile. **17 U.S.C. § 104(b)**.

If there appears to be no other basis for establishing eligibility for copyright protection, the specialist will communicate with the applicant. If the nation of first publication is the only basis for establishing that the work is eligible for copyright protection, registration may be refused.

##### *Examples:*

- The applicant states that the nation of first publication is “not known,” but states that the author is a citizen of France. The application will be accepted.
- The applicant states that the nation of first publication is “not known” and states that the author is a citizen of Eritrea and a domiciliary of Ethiopia. The registration specialist will communicate with the applicant, because it is

unclear whether the work is eligible for copyright protection in the United States based on the information provided.

- The U.S. Copyright Office receives an online application which states that both the nation of first publication and the author's citizenship and domicile are "not known." The registration specialist will communicate with the applicant, because it is not clear whether the work is eligible for copyright protection in the United States based on the information provided.

## 613 Name of Author(s)

This Section describes the U.S. Copyright Office's practices and procedures for identifying the author of a work.

### 613.1 Who Is the Author?

To register a work with the U.S. Copyright Office, the **applicant** must identify the author or authors of the work submitted for registration, unless the work is **anonymous** or **pseudonymous**. **17 U.S.C. § 409(2)**. Generally, the author is the person (or persons) who actually created the material that the applicant intends to register. *See, e.g., Community for Creative Non-Violence v. Reid*, 490 U.S. 730, 737 (1989) ("As a general rule, the author is the party who actually creates the work, that is, the person who translates an idea into a fixed, tangible expression entitled to copyright protection."); *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 58 (1884) (describing the author as the person "to whom anything owes its origin; originator; maker; one who completes a work of science or literature."). There is an exception to this rule if the work is a **work made for hire**. The author of a work made for hire is not the individual who actually created the work, but "the employer or other person for whom the work was prepared." *Community for Creative Non-Violence*, 490 U.S. at 737; *see also U.S. Auto Parts Network, Inc. v. Parts Geek LLC*, 692 F.3d 1009, 1015 (9th Cir. 2012). For a definition and discussion of works made for hire, see **Chapter 500**, Section 506.

### 613.2 When Authorship Is Determined

A work is protected by copyright from the moment that it has been fixed in a tangible medium of expression. **17 U.S.C. § 102(a)**. As soon as a work is written down on paper, captured on film, recorded in an audio file, saved onto an electronic storage device, or set in any other tangible medium of expression, the copyright immediately becomes the property of the author or authors who created the work (or in the case of a **work made for hire**, the employer of the person who created the work or the party that commissioned the work). **17 U.S.C. § 201(a), (b)**. Thus, the author of a work is determined when the work is created.

*Examples:*

- Joseph Andrews wrote a biography titled *Finding Henry Fielding*. Andrews assigned the copyright in this work to Oxbridge University but died before the work was **published**. Oxbridge subsequently submits an application to register the work, naming itself as the **copyright claimant** for the work. Andrews should be named as the author, even though he died before the application was filed.

- Friend Filter LLC submits an application for a **computer program** naming itself as the author of the work. In the Note to Copyright Office field the **applicant** explains that Jay Rothenberg is the president of the company, that he wrote the program in 2005, and that he assigned the copyright to Friend Filter when the company was formed in 2007. The **registration specialist** will communicate with the applicant and explain that Jay should be named as the author of the work, not the company.

### 613.3 Identifying the Authors Who Should Be Named in the Application

When completing an application, the **applicant** should only provide the name(s) of the author(s) who created the **copyrightable** material that the applicant intends to register. Likewise, the applicant should only identify the author(s) who created the copyrightable material that is owned by the individual or entity who is named in the application as the **copyright claimant**.

The applicant should not provide the name of any person(s) who created material that is not owned by the copyright claimant or material that will not be submitted for registration. Likewise, there is no need to provide the name of any person(s) who created material that is *de minimis* or uncopyrightable.

### 613.4 Identifying the Authors of a Work Made for Hire

A work of authorship is considered a **work made for hire** (i) if the work was “prepared by an employee within the scope of his or her employment,” or (ii) if the work was “specially ordered or commissioned.” **17 U.S.C. § 101** (definition of “work made for hire”).

For guidance in identifying the author of a work made for hire, see **Chapter 500**, Section 506.

### 613.5 Identifying the Authors of a Joint Work

A **joint work** is a work “prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.” **17 U.S.C. § 101**. If the work submitted for registration is a joint work the **applicant** should provide the name of each author who contributed **copyrightable** authorship to the work that the applicant intends to register. If the applicant fails to name all the joint authors who are named in the **deposit copy(ies)**, the **registration specialist** will communicate with the applicant.

*Examples:*

- An application is submitted for a children’s book containing equal amounts of text and artwork on each page. The applicant names John Kinnadee as the author of “text” and George Sand as the author of “2-dimensional artwork.” A statement on the deposit copies reads “Text by John Kinnadee; Illustrations by George Sands” and the **copyright notice** reads “© Kinnadee and Sands.” The copyright notice and the content of the work indicate that this may be a joint work. The registration specialist will register the **claim**.
- An application for a scientific article names Dr. Pankaj Patel, Dr. Shilpa Shah, and Dr. Aziz Haniff as co-authors of the “text.” A statement on the deposit

copy reads “By Drs. Patel, Shah, and Haniff,” which suggests that this may be a joint work. The registration specialist will register the claim.

- An application for a children’s book names Debbie Churchill as the author and **claimant** of the “text.” The copyright notice that appears in the deposit copies reads “Text © Deborah Churchill; Illustrations © Thomas Broadbent.” The copyright notice indicates that the text and the illustrations may be separately owned and the application clearly indicates that the applicant only intends to register the text. The registration specialist will register the claim without communicating with the applicant.
- An application for an essay names Darryl Oshey and Ruben Israel as co-authors of the work, but a statement on the deposit copy reads “By D. Oshey, R. Israel, and C. Cabbage.” The registration specialist will communicate with the applicant. The essay appears to be a joint work, but the applicant failed to identify all of the authors who are named on the deposit copy.

For a general discussion of joint works, see **Chapter 500**, Section 505.

### 613.6 Identifying the Author of a Derivative Work

A **derivative work** is a work that is “based upon one or more preexisting works.” **17 U.S.C. § 101**. Typically, a derivative work is a new version of a preexisting work or an entirely new work that combines material from a preexisting work with an appreciable amount of new material.

If the **applicant** intends to register a derivative work, the applicant should provide the name of the author or authors who created the new or revised material submitted for registration.

As a general rule, the applicant should not provide the name of the author(s) who created any preexisting material that appears in the derivative work. If the author of the preexisting material is named in the application, the **registration specialist** may register the **claim** if this information is provided in the Material Excluded field (in the case of an online application) or the Preexisting Material space (in the case of a paper application).

*Examples:*

- An online application for a **sound recording** names Molly Moe as the author of the work. The recording contains Molly’s performance of a song which was written by Samuel Brackett. The applicant excludes the music from the claim by completing the Limitation of Claim screen, but does not provide Samuel’s name in the Name of Author field. The registration specialist will register the claim.
- An online application is submitted for a short story that contains extensive quotes from William Shakespeare’s *Macbeth*. April Pearly is named as the sole author of the work. The applicant excludes the passages from *Macbeth* from the claim by completing the Limitation of Claim screen, but does not provide Shakespeare’s name in the Name of Author field. The registration specialist will register the claim.

- A paper application names George Milo as the author of a lithograph. The applicant checks the box indicating that the work is “a reproduction of a work of art,” but does not name the author of the preexisting work of art. The registration specialist will register the claim.
- An online application for a dramatic work names Michael Kelly as the author of the work. The New Material Included field asserts a claim in “text.” The Material Excluded field explains that the work is “based on letters and journal entries by Samuel Chase.” The registration specialist will register the claim without communicating with the applicant.
- Prudhoe Sellars wrote a novel, which was translated into Spanish by John Puff. The applicant submits an application naming Prudhoe as the author of the work. In the New Material Included field the applicant asserts a claim in “**translation**” and in the Material Excluded field he excludes “Original novel by Prudhoe Sellars” from the claim. The registration specialist will communicate with the applicant. The applicant clearly intends to register the Spanish translation, rather than the original novel. Therefore, John should be listed in the Name of Author field, rather than Prudhoe.

For a general discussion of derivative works, see [Chapter 500](#), Section 507. For guidance in completing the Material Excluded/New Material Included fields in the online application and spaces 6(a) and 6(b) in the paper application, see [Section 621](#).

### 613.7 Identifying the Author of a Compilation

A **compilation** “is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.” [17 U.S.C. § 101](#). A compilation may contain several forms of authorship:

- The selection authorship involved in choosing the preexisting material or data that will be included in the compilation.
- The coordination authorship involved in classifying, categorizing, ordering, or grouping the preexisting material or data.
- The arrangement authorship involved in determining the placement or arrangement of the preexisting material or data within the compilation as a whole.

If the **applicant** intends to register a compilation, the applicant should provide the name(s) of the author(s) who created the selection, coordination, and/or arrangement that the applicant intends to register.

An applicant may register a compilation together with the material contained therein, provided that (i) the material is **copyrightable** and (ii) the compilation and the material therein were created by the same author, and/or (iii) the copyright in the compilation and the material therein is owned by the **copyright claimant**. If so, the applicant should provide the name(s) of the author(s) who created the material that is included in the **claim**.



*Examples:*

- Empirical Asset Management created the *Copperhead 500*, which is a financial index that tracks the performance of the copper industry. Empirical developed the criteria for determining whether a particular company should be included in the index and each year it updates the selection of companies that meet these parameters. Empirical should be named as the author of the selection of companies that are included in the *Copperhead Index*.
- Finite Financial publishes *The Final Word*, which is a **database** that contains the closing price for securities that are traded on various exchanges. Finite selects the securities that are included within the database, organizes them into various categories, and arranges the closing price for each security in manner that facilitates searching and sorting of the information. Finite should be named as the author of the selection and coordination of the securities, as well as the author of the arrangement of the closing prices. Finite should not be named as the author of the actual prices that are listed in *The Final Word*, because they are mere facts that are not eligible for copyright protection.

### 613.8 Identifying the Author of a Collective Work or a Contribution to a Collective Work

The Copyright Act defines a **collective work** as “a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.” **17 U.S.C. § 101**. Collective works are a subset of **compilations**. *Id.* (definition of “compilation”). Therefore, for the collective whole to be registrable, the separate and independent works must be selected, coordinated, and/or arranged in such a way that “the resulting work as a whole constitutes an original work of authorship.” *Id.*

A contribution to a collective work is a separate and independent work that has been included within a collective work, such as an article that has been included within a periodical or an essay that has been included within an anthology. A collective work contains two different types of authorship:

- The authorship in the collective work as a whole, which involves selecting, coordinating, and/or arranging the various contributions within the collective work as a whole; and
- The authorship in the separate and independent works that have been included in the collective work.

An **applicant** may register a collective work together with the separate and independent works contained therein if the collective work and the contributions were created by the same author and/or if the copyright in the collective work and the contributions are owned by the **copyright claimant**.

If the applicant intends to register the copyright in the collective work as a whole, the applicant should identify the individual(s) or entity that selected, coordinated, and/or arranged the contributions and assembled them into a collective whole.

If the applicant intends to register a collective work together with the contributions that appear in that work and if the contributions were created by a person(s) who transferred his or her



copyright to the claimant, the applicant should provide the name(s) of those author(s) in the Name of Author field/space.

If the applicant intends to register a contribution that appeared in the collective work, but does not intend to register the collective work as a whole, the applicant should identify the author of the contribution in the Name of Author field/space.

In all cases, the applicant should provide the name(s) of the author(s) who created the material that is owned by the copyright claimant and for which registration is sought. The applicant should not include the name(s) of author(s) who created any material that is not owned by the copyright claimant or any material that the applicant does not intend to register.

*Examples:*

- Health Publishing Company submits an application for a publication containing hundreds of articles on remedies for common health problems. The company selected the articles that have been included in the publication and categorized them by subject matter. Half of the articles were written by the company's employees. The others were written by freelance writers, but only two of those writers assigned the copyright in their contributions to the publisher. Health Publishing Company should be named as the author of the collective work as a whole, and the author of the articles written by its employees. The publisher also should provide the names of the two freelance authors who assigned their copyrights to the company. The remainder of the freelance authors should not be mentioned in the application, because the company does not own the copyright in their contributions.
- Smart Curriculum, Inc. submits an application to register a package of materials for an educational seminar. The package includes a **motion picture**, instructional text, and various printed materials containing charts depicting the company's worldwide sales. The application names Smart Curriculum, Inc. as the author of the collective work. In addition, it names Advanced Educational Productions, Inc. as the author of the motion picture and several individuals as the authors of the instructional text. The **transfer statement** indicates that Smart Curriculum acquired the copyright in these elements by written agreement. The **registration specialist** will register the **claim**, because it is clear that the applicant intends to register both the collective work as well as the contributions that have been identified in the application.
- Santiago Thomas took a photograph which was **published** in the May 2012 edition of *Modern Driver* magazine. Santiago submits an application naming himself as the author and claimant of this photograph, but does not mention any of the other material that appears in the magazine. The registration specialist will register the claim without communicating with the applicant, because it is clear that the applicant intends to register his photograph but does not intend to register the collective work as a whole.

For a discussion of the procedure for asserting a claim to copyright in a collective work and/or a contribution to a collective work, see Section 618.7. For a general discussion of collective works and contributions to collective works, see Chapter 500, Section 509.

### 613.9 Completing the Application: Name of Author

When completing an online application, the **applicant** should provide the full name of each author who created the **copyrightable** material that the applicant intends to register.

If the copyrightable material was created by an individual, the applicant should provide the author's first and last name on the Authors screen in the field marked Individual. If the copyrightable material was created by or on behalf of a corporation, company, organization, or other legal entity, the applicant should provide the name of the entity in the field marked Organization.

When completing a Single Application the applicant should provide the author's name on the screen marked Author.

When completing a paper application, the applicant should enter the author's full name on space 2(a) of the application in the space marked Name of Author. If the work was created by two or more authors, the applicant may provide the names of up to three authors on spaces 2(a), 2(b), and 2(c) of the application (or the names of up to two authors in the case of an application submitted on **Form VA**). The applicant may add the names of additional authors by completing and submitting as many continuation sheets as necessary.

As a general rule, the applicant should provide the name of the actual individual or entity that created the material that the applicant intends to register. However, there are three exceptions to this rule:

- If the work is a **work made for hire**, the applicant should list the name of the employer or the name of the party that ordered or commissioned the work (rather than the name of the individual or entity that actually created the work). For a definition and discussion of works made for hire, see **Chapter 500**, Section 506.
- If the work is an **anonymous** work, the applicant is not required to provide the author's full name in the application. Instead, the applicant may state "Anonymous" in the Name of Author field/space or may leave that portion of the application blank, provided that the applicant checks the box marked Anonymous. For a definition and discussion of anonymous works, see Section **615.1**.
- If the work is a **pseudonymous** work, the applicant is not required to provide the author's full name in the application. Instead, the applicant may insert the author's pseudonym in the Name of Author field/space, provided that the applicant checks the box marked Pseudonymous. For a definition and discussion of pseudonymous works, see Section **615.2**.

### 613.10 Examination Guidelines: Name of Author

This Section discusses the U.S. Copyright Office's practices and procedures for examining the Name of Author field/space.

For a discussion of the Office's practices and procedures for examining the Name of Author field/space in an application to register a **work made for hire**, an **anonymous** work, or a **pseudonymous** work, see Sections **614.2**, **615.1** and **615.2**.

**613.10(A) Name of Author Unclear**

The author(s) of the **copyrightable** material that the **applicant** intends to register should be clearly identified in the application. As a general rule, the **registration specialist** will accept the information contained in the application unless it is contradicted by the information found elsewhere in the registration materials or information that is known to the U.S. Copyright Office.

The specialist will communicate with the applicant if it is unclear whether the person named in the application is the author of the work that has been submitted for registration. For example, the specialist may communicate if the applicant indicates that the work was created by a project manager, project coordinator, project head, financier, underwriter, researcher, reviewer, commentator, printer, artistic consultant, or any other term that suggests that the person named in the application may not be the actual author of the work. For the same reason, the specialist may communicate if the applicant indicates that the person named in the application merely reviewed, or transcribed the work, or merely suggested revisions or edits without contributing copyrightable authorship.

**613.10(B) Name of Author: Variances**

As a general rule, the person(s) named in the application as the author(s) of the work should be consistent with the information that appears on the **deposit copy(ies)** or elsewhere in the registration materials. Ordinarily, the **registration specialist** will give greater weight to the information that appears in the application. If appropriate, the registration specialist may add an **annotation** to the registration record, or a note to the **online public record** to clarify the information given in the application, or to add information that appears in the deposit copy(ies) or elsewhere in the registration materials. The registration specialist may communicate with the **applicant** if the information provided in the application is substantially inconsistent with the information that appears on the deposit copy(ies) or elsewhere in the registration materials.

**613.10(B)(1) Variances Between the Name Provided in the Application and the Name Provided in the Deposit Copy(ies)****613.10(B)(1)(a) Minor Variances**

If there is a minor variance between the name listed in the application and the name found on the **deposit copy(ies)**, and if both names clearly refer to the same person, the **registration specialist** may register the **claim** without communicating with the **applicant** and without annotating the **certificate of registration**. The name that appears on the deposit copy(ies) may be added to the **online public record** if it is likely that a person searching the U.S. Copyright Office's records may use that name to locate the work.

*Examples:*

- An application for a painting names “Margaret Duncan” as the author, but the name that appears on the canvas is “Peggy Duncan.” The registration specialist will register the claim without communicating with the applicant, and may add the name that appears on the **deposit** to the online public record.

- Liliana Sophia Monroe submits an application to register a poem. Liliana names herself as the author, but the deposit copy states that the work was “written by Lily Monroe.” The registration specialist will register the claim without communicating with the applicant, and may add the name that appears on the deposit to the online public record.
- John Smith submits an application to register a mash-up video and names himself as the author, but the deposit copy states that the work was “produced by Johnny Smythe.” The registration specialist will register the claim without communicating with the applicant, and may add the name that appears on the deposit to the online public record.
- Bob Walters submits an application to register a song. Bob names himself as the author, but the deposit copy states that the work is “a Buck Walters ballad.” The registration specialist will register the claim because Buck Walters appears to be the author’s nickname. In addition, the specialist may add the name that appears on the copy to the online public record.

#### 613.10(B)(1)(b) Significant Variances

If there is a significant variance between the name given in the application and the name given on the **deposit copy(ies)**, the **registration specialist** may register the **claim** if it is clear that both names refer to the same person. The name that appears on the deposit copy(ies) may be added to the **online public record**, and it may be added to the registration record with an **annotation**.

##### *Examples:*

- Sally Burnham-Jones submits an application to register an app. The deposit copy names “Sally Jones” as the author. The application names “Sally Burnham” as the author and **claimant**, and the application is certified by “Sally Burnham-Jones.” The registration specialist will register the claim, because Sally Jones appears to be the author’s married name. The specialist may add an annotation to the registration record, such as: “Regarding author information: name appears on copy as Sally Jones.” The specialist also may add that name to the online public record.
- The U.S. Copyright Office receives an application to register a song. The application names Lawrence Mitchell, Janet Carlyle, and Robert Thomas as the authors of the music and lyrics. The liner notes state that the authors of the work are Yard Dog, Metal Head, and The Enforcer. The registration specialist will register the claim. The names that appear on the deposit copy may be added to the online public record, because they appear to be pseudonyms for the individuals named in the application.
- Jason Brown submits an application to register a song on **Form PA**. The application names Jason Brown as the author of “lyrics” and Cathy Unger as the author of “music.” The deposit copy states “written by the Marvels.” The registration specialist will register the claim because “the Marvels” appears to be the name of Jason and Cathy’s performing group. The name that appears on the deposit copy may be added to the online public record.

If there is a significant variance between the name listed in the application and the name given on the deposit copy(ies), and if it is unclear whether the names given in the application and the deposit copy(ies) refer to the same person, the registration specialist will communicate with the **applicant**. If the applicant confirms that the name in the application is incorrect, the specialist will add the correct name to the registration record. If the applicant states that the name given in the application is correct, the specialist will register the claim. In addition, the specialist will add the name that appears on the deposit copy(ies) to the online public record, and will place a note in the registration record indicating that there is correspondence in the file.

*Examples:*

- The Office receives an online application for an instrumental track titled “Zippy Beat.” The application names Jason Herbert and Cynthia Schmidt as the authors of the work. The file name for the deposit copy reads, “Zippybeat2012byJasonandDavid.mp3.” The registration specialist will communicate with the applicant, because there is a significant variance between the names entered in the application and the names from the deposit copy.
- An application for a musical work names Randy Potemkin as the author, but the deposit copy states “music by Mary Jones.” The registration specialist will communicate with the applicant. The applicant confirms that the work was created by Mary (rather than Randy). The specialist will replace the name given in the application with the name given on the deposit.
- An application for an article names Randolph Smith and Jason McCombs as co-authors of the work and the **pseudonymous** box is checked “no.” The deposit copy states that the work was “written by Randolph Smith and George Bilford.” The registration specialist will communicate with the applicant. The applicant confirms that the work was created by Randolph, Jason, and George. The specialist will add George’s name to the registration record and register the claim. The specialist will add a note to the registration record indicating that the file contains correspondence.

#### **613.10(B)(2) Variance Between the Number of Authors Named in the Application and the Number of Authors Named in the Deposit Copy(ies)**

If the authors named in the application are more numerous than the authors named in the **deposit copy(ies)**, the **registration specialist** may register the **claim** if the information specified on the deposit copy(ies) appears to be incomplete, provided that the application has been certified by or on behalf of one of the authors who is named in both the application and the deposit copy(ies). If the application has been certified by an author who is named in the application but not the deposit copy(ies), the specialist will communicate with the **applicant**.

*Examples:*

- Melissa Monet submits an application to register a song. The application names Melissa Monet and Robert Dearborn as the author of “music and lyrics,” but a statement on the deposit copy reads, “music and lyrics by Melissa Monet.” The registration specialist may register the claim if he or she determines that the song was created by Melissa and Robert and that the statement on the deposit copy is incomplete.

- Thomas Truxton submits an application to register the manuscript for a children's book. The application lists Tom Truxton and Bobbie Park as the authors of the "text" and Cindy Cove as the author of the "artwork." A statement on the cover of the manuscript reads, "Story by Tom Truxton; Illustrations by Cindy Cove." The registration specialist may register the claim if he or she determines that the work was created by Tom, Bobbie, and Cindy, and that the statement on the cover of the manuscript is incomplete.
- An application for a multimedia work names Reba McKenzie, Suzie Jones, and Billy Jones as the co-authors of the work. Billy signed the certification. A statement on the deposit copy reads "By Reba McKenzie and Suzie Jones." Because Billy's name does not appear on the deposit, the registration specialist will communicate with the applicant to determine if Billy is, in fact, an author of this work.

If the authors named in the deposit copy(ies) outnumber the authors named in the application and if it is clear that the unnamed authors created the **copyrightable** material that the applicant intends to register, the registration specialist will communicate with the applicant.

*Examples:*

- An application is submitted for a book that contains text and photographs. The application names John Hously as the author of the "text." A statement on the deposit copies reads "Written by John Hously; Photographs by Larry Fogley." The registration specialist will register the claim without communicating with the applicant. The applicant asserted a claim in the text (rather than the photographs), the author of the text is named in the application, and there is no conflict between the name that appears in the application and the name that appears in the deposit copies.
- An application for a song titled "Running Up the Down Escalator" names Mark Richards and David Anderson as the authors of the work. The liner notes state that the song was written by Mark Richards, David Anderson, and Stephen Davis. In the Note to Copyright Office field the applicant confirms that Mark and David are the sole authors of this work and that the statement on the deposit copy is incorrect. The specialist will register the claim, and will add a note to the registration **record** indicating that there is correspondence in the file.
- Catherine Jones submits an online application for a screenplay titled *Systemic Collapse*. The application names Catherine as the author for the "text," but the screenplay states "Systemic Collapse by Catherine Jones and Howard Finkelman." The registration specialist will communicate with the applicant to determine whether Howard's name should be added to the application as a co-author of the text.
- An application is submitted for a CD naming Cathy Gardner as the author of music, lyrics, and artwork. However, the deposit copy names Cathy as the author of the music and lyrics and James Holmes as the author of the artwork. The registration specialist will communicate with the applicant to determine if James should be added to the application as the author of the artwork.

### 613.10(C) Name of Author Not Required

As discussed in Section 613.3 the **applicant** should not provide the name of any person who created material that is not owned by the **copyright claimant** or material that the applicant does not intend to register. Likewise, the applicant should not provide the name of any person who created material that is *de minimis* or uncopyrightable.

As a general rule, if the applicant fails to mention an author who is named in the **deposit copy(ies)** or elsewhere in the registration materials, the **registration specialist** will not communicate with the applicant if it is clear that the claimant does not own the copyright in that author's contribution or if it is clear that the applicant does not intend to register that contribution. In making this determination, the specialist may consider the title of the work, the **copyright notice**, or any other information given in the deposit copy(ies) or elsewhere in the registration materials. If appropriate, the registration specialist may add an **annotation** to the registration record to clarify the information given in the application or to add information that appears in the deposit copy(ies) or elsewhere in the registration materials.

#### *Examples:*

- Technology Law Guides, Inc. submits an application to register a textbook titled *Software and Internet Law (Second Edition)*. The application names Maria Scott as the author of "text." A statement on the title page reads, "Second Edition Editor in Chief: Maria Scott, Contributing Editors Terry Johnson, Belinda Boswell, et al." The registration specialist will register the **claim** if he or she determines that the applicant only intends to register the new material that appears in the second edition, that Maria is the author of the new material, and that Terry and Belinda did not contribute **copyrightable** authorship to the second edition.
- An application is submitted for a 500 page biography of Charles de Gaul. The deposit copies name Pierre Lafayette as the author of the work and Laurent Etienne as the author of the foreword that appears at the beginning of the book. The applicant names Pierre as the author of "text," but does not mention the author of the foreword. The registration specialist will register the claim because it appears that the applicant only intends to register the text of the biography, rather than the text of the foreword.
- An application names Terrawn Dooley and Jessica Brown as co-authors of a travel brochure. The copy contains text and artwork, along with the statement "Written by T. Dooley and J. Brown. Artwork by Kyle Ritz." The registration specialist will register the claim because the text and the artwork appear to be separately owned and the applicant appears to be asserting a claim in the text, but not the artwork. To clarify the scope of the claim, the specialist may add an annotation, such as: "Regarding author information: statements on deposit copy indicate text by Terrawn Dooley and Jessica Brown."

If the applicant fails to mention an author who is named in the deposit copy(ies) or elsewhere in the registration materials, the registration specialist will not communicate with the applicant if the author's contribution appears to be *de minimis* or uncopyrightable.



*Examples:*

- Darryl Cooper submits an application for a screenplay titled *Better Safe Than Sorry*. Both the application and the deposit copy name Darryl as the author of the work. In the Note to Copyright Office field, the applicant explains that his friend Tom Klein came up with the title for the work. Because titles are uncopyrightable and because the applicant did not claim the title in the application, the registration specialist will register the claim without communicating with the applicant.
- An application is submitted for a photograph that contains an image of a fashion model together with the phrase “Not to be outdone.” The application names Jordan Johnson as the author of the photograph. The deposit copy names Jordan as the author of the “photograph” and Marci Adams as the author of the “text.” Because the text is a short phrase that is uncopyrightable and because that applicant did not claim the text in the application, the registration specialist will register the claim without communicating with the applicant.

**613.10(D) Name of Author Unknown**

The **registration specialist** will communicate with the **applicant** if the applicant states that the author of the work is “unknown,” “not known,” or the like, because this type of statement suggests that the applicant and/or the **claimant** may not be entitled to register the work.

**613.10(E) Name of the Author Omitted: Works Created by a Single Author**

If the work was created by a single author, the **applicant** should identify the author of that work (unless the applicant has checked the box indicating that the work is an **anonymous** or **pseudonymous** work). For guidance in identifying the author of the work and completing the fields for an anonymous or pseudonymous work, see Sections **613.9**, **615.1(B)** and **615.2(B)**.

If the applicant fails to identify the author in an online application, the application will not be accepted by the U.S. Copyright Office’s electronic registration system.

If the applicant fails to identify the author in a paper application, the **registration specialist** will communicate with the applicant.

**613.10(F) Name of an Author Omitted: Works Created by Large Numbers of Authors**

If the work was created by a large number of authors, the **applicant** is encouraged to provide the name of each author in the application where it is feasible. Likewise, if the work contains or consists of separate and independent works created by a large number of authors and if the **claimant** owns the copyright in each of those contributions, the applicant is encouraged to identify the author of each contribution.

The Office will accept an application that provides representative names and identifies the number of additional authors included in the **claim** (e.g., “John Jones, Will Smith, Fred Johnson, and thirty-five other contributors”). However, the **registration specialist** will not add missing names



to the application, even if the authors' contributions are clearly specified in the **deposit copy(ies)** or elsewhere in the registration materials.

**NOTE:** One district court has concluded that if the applicant does not identify each author in the application, the registration does not cover any portion of the work that was created by an unnamed author. See *Muench Photography, Inc. v. Houghton Mifflin Harcourt Publishing Co.*, 712 F. Supp. 2d 84, 94-95 (S.D.N.Y. 2010), *abrogated on other grounds by Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 157 (2010);

The Fourth and Ninth Circuits have reached the opposite conclusion, holding that a registration for a **collective work** may cover the constituent elements of that work even if the authors of those elements are not specified in the registration. See *Alaska Stock, LLC v. Houghton Mifflin Harcourt Publishing Co.*, 747 F.3d 673, 685 (9th Cir. 2014); *Bean v. Pearson Education, Inc.*, 2014 U.S. App. LEXIS 19869, at \*2 (9th Cir. Oct. 10, 2014); *Bean v. Houghton Mifflin Harcourt Publishing Co.*, 2014 U.S. App. LEXIS 19858, at \*2 (9th Cir. Oct. 10, 2014); *Metropolitan Regional Information Systems Inc. v. American Home Realty Network, LLC*, 722 F.3d 591, 599-600 (4th Cir. 2013); *Craigslist Inc. v. 3Taps Inc.*, 2013 U.S. Dist. LEXIS 61837, at \*\*34 (N.D. Cal. Apr. 30, 2013).

## 614 Works Made for Hire

### 614.1 Completing the Application: Works Made for Hire

This Section provides guidance on completing an application to register a **work made for hire**. For a definition of works made for hire, see **Chapter 500**, Section 506. For guidance in determining whether a particular work qualifies as a work made for hire, see **Chapter 500**, Section 506.4.

A work made for hire may be registered with an online application or with a paper application submitted on Forms TX, VA, PA, SR, or SE.

The Single Application may not be used to register a work made for hire. For a discussion of the Single Application, see **Chapter 1400**, Section 1402.5.

#### 614.1(A) Year of Completion and Date of Publication

The term for a **work made for hire** is based on the year that the work was created or the date that the work was **published**. Therefore, the **applicant** must provide this information when completing an online application or a paper application. For guidance on completing this portion of the application, see Sections **611** and **612**.

#### 614.1(B) Identifying the Author of a Work Made for Hire

When completing an application the employer or the party that ordered or commissioned the work should be named as the author (rather than the individual who actually created the work). In other words, if the work was created by an employee acting within the scope of his or her employment, the employer should be identified as the author (not the employee). If the work was specially ordered or commissioned as a **work made for hire**, the person or organization that

ordered or commissioned the work should be listed as the author (rather than the individual who actually created the work). See **17 U.S.C. § 201(b)**.

If the employer or the party who ordered or commissioned the work is an individual, the **applicant** should enter that individual's first and last name in the field marked Individual Author. If the employer or the party that ordered or commissioned the work is an organization, the applicant should provide the full name of that organization in the field marked Organization Name. In both cases, the applicant should choose "yes" in response to the question "Is this author's contribution a work made for hire?"

**NOTE:** If an organization is named as the author of the work, the box marked "Is this author's contribution a work made for hire?" must be checked "yes." If the applicant provides the name of an organization and checks the "no" box, the application will not be accepted by the electronic registration system.

When completing a paper application, the applicant should list the name of the employer or the party that ordered or commissioned the work on line 2(a) of the application in the space marked Name of Author. Additionally, the applicant should choose "yes" in response to the question "Is this author's contribution a work made for hire?"

#### **614.1(C) Identifying the Citizenship and / or Domicile of the Author**

If the work was created by an employee acting within the scope of his or her employment and if the employer is an individual, the **applicant** should identify the employer's country of citizenship and domicile (rather than the employee's citizenship or domicile). Likewise, if the work was specially ordered or commissioned as a **work made for hire** and if the hiring party is an individual, the applicant should provide citizenship and domicile information for the party that ordered or commissioned the work (rather than the individual who actually created the work). By contrast, if the work was created for a company, organization, or other legal entity, the applicant should identify the country where the entity is domiciled, but need not provide a country of citizenship for that entity.

When completing an online application, the applicant should provide this information by selecting one of the countries listed in the drop down menus that appear under the headings Citizenship and/or Domicile. When completing a paper application the applicant should insert this information on space 2. If the employer or the party that ordered or commissioned the work is a citizen of or domiciled in more than one country, the applicant may specify any of the countries that establish that the work is eligible for copyright protection under U.S. copyright law. For additional guidance on completing this portion of the application, see Section **617**.

#### **614.1(D) Year of Birth and Death Not Required for Works Made for Hire**

When completing an online or paper application, the **applicant** will be asked to identify the year that the author was born and the year that the author died. If the work is a **work made for hire**, this portion of the application should be left blank, even if the author is an individual, rather than a company or organization. The year of the author's birth and death is not required in this situation, because the term of copyright for a work made for hire is based on the year the work was created or the year the work was published, rather than the author's year of death. **17 U.S.C. § 302(c)**.

### 614.1(E) Registering a Work Made for Hire as an Anonymous or Pseudonymous Work

A work is considered an “**anonymous** work” if “no natural person is identified as author” on the copies or **phonorecords** of the work. **17 U.S.C. § 101**. A work is considered a “**pseudonymous** work” if “the author is identified under a fictitious name” on the copies or phonorecords of the work. *Id.* If the author’s name appears on the copies or phonorecords, the work is not an anonymous or pseudonymous work, even if the author does not wish to reveal his or her identity in the registration record.

The statute implies that anonymous works and pseudonymous works are limited to works created by natural persons. *Compare id.* (definitions of “anonymous” and “pseudonymous” works) with **17 U.S.C. § 302(c)** (indicating that the term for anonymous and pseudonymous works may be based on the life of the author if his or her identity is revealed before the copyright expires). If the **applicant** checks the box indicating that the work is a **work made for hire** and checks the box marked Anonymous or Pseudonymous and/or leaves the Name of Author field/space blank, the **registration specialist** will communicate with the applicant. The specialist will explain that a work made for hire cannot be registered as an anonymous or pseudonymous work and that the author’s full name should be provided in the registration record.

#### *Examples:*

- An application is submitted for a “tell all” book about a famous celebrity. Both the application and the **deposit copies** state that the author of this work is “Anonymous.” The Tattletale Press, LLC is named as the **copyright claimant**. The work made for hire box is checked “yes” and no **transfer statement** has been provided. The registration specialist will communicate with the applicant. The specialist will explain that if the work is actually a work made for hire it cannot be registered as an anonymous work. In this case, the specialist will ask authorization to give the author’s full name in the registration record and answer “no” to the anonymous question. By contrast, if the work made for hire question was answered “yes” by mistake and the work truly is anonymous (*i.e.*, not a work made for hire and no natural person is named on the deposit copies), then the specialist will request authorization to answer “no” to the work made for hire question, and to add a transfer statement to the registration record.
- An online application is submitted for a photograph and names Global Icons as the author and **claimant** for the work. The pseudonymous question is answered “yes.” In the Pseudonym field, the applicant entered the name “Photograph My World.” The registration specialist will communicate with the applicant to explain that a work authored by a company or other legal entity cannot be registered as pseudonymous. The specialist will request authorization to remove all reference to the work being pseudonymous. If it is determined that the company uses both names (Global Icons and Photograph My World), the specialist also may request that the relationship between the names be identified in the registration record using terms such as: “Global Icons doing business as Photograph My World” or “Global Icons also known as Photograph My World.”

For a general discussion of anonymous and pseudonymous works, see Section **615**.

## 614.1(F) Identifying the Claimant for a Work Made for Hire

When completing an online application or paper application, the **applicant** will be asked to identify the full name and address of the **claimant**. For purposes of copyright registration, the claimant for a **work made for hire** is either the author of the work (*i.e.*, employer or the party that ordered or commissioned the work) or a person or organization that obtained ownership of all the **exclusive rights** under copyright act by legal or written **transfer**. **37 C.F.R. § 202.3(a)(3)**. If the person(s) or organization(s) named in the application as the author and copyright claimant are not the same, the applicant should provide a brief statement explaining how the claimant obtained ownership of the copyright. **17 U.S.C. § 409(5)**. For guidance on completing this portion of the application, see Sections **619** and **620**.

## 614.2 Examination Guidelines: Works Made for Hire

This Section discusses the U.S. Copyright Office's practices and procedures for examining the **work made for hire** field/space in an online application or paper application.

**NOTE:** The work made for hire field does not appear in the Single Application.

### 614.2(A) Identifying the Work as a Work Made for Hire

If the work described in the application is a **work made for hire**, the box marked "Is this author's contribution a work made for hire?" should be checked "yes."

If the **applicant** indicates that the work is a work made for hire, and it appears the statutory definition has been met, the **registration specialist** generally will accept the applicant's assertion.

If the applicant checks the box marked "yes," but the application, **deposit copy(ies)**, or other registration materials indicate that the work does not meet the statutory definition for a work made for hire, the registration specialist may communicate with the applicant. Likewise, if the work appears to be a work made for hire the specialist may communicate with the applicant if the applicant checks the box marked "no" or fails to complete this portion of the application.

### 614.2(B) Identifying the Author of a Work Made for Hire

#### 614.2(B)(1) Was the Work Created by an Employee Acting within the Scope of His or Her Duties?

As discussed in **Chapter 500**, Section 506.4, the **applicant** — not the U.S. Copyright Office — must determine whether a work meets the statutory definition of a **work made for hire**. The **registration specialist** generally will accept the applicant's assertion regarding whether the work is a work made for hire, unless there is evidence to the contrary in the registration materials. As a general rule, the registration specialist will not ask the applicant to confirm that the work was created by an employee acting within the scope of his or her employment.

*Examples:*

- An application is submitted for a photograph naming “Briana Johnson, photographer for Sonic Company” as the author of the work. The work made for hire boxes are blank and Sonic Company has been named as the **claimant**. The registration specialist will communicate with the applicant. If Briana is an employee of Sonic Company, the company should be named as the author, the work made for hire box should be checked “yes,” and Briana’s name should be removed from the application. If Briana is not an employee, the applicant should provide a **transfer statement** explaining how the company obtained the copyright in this work.
- An application names Hopkins Financial Services LLP as the author and copyright claimant for a short story. The work made for hire box is checked “yes” and the application is signed “Roland Hopkins III, President & CEO, Hopkins Financial Services.” A statement on the **deposit copies** reads “By Roland Hopkins III.” The registration specialist will communicate with the applicant if it seems unlikely that Roland created this work as part of his regular duties and responsibilities for this company.

**614.2(B)(2) Was the Work Specially Ordered or Commissioned as a Work Made for Hire?**

If the **applicant** checks the **work made for hire** box or affirmatively states that the work was specially ordered or commissioned, the **registration specialist** will accept that assertion, unless there is evidence to the contrary in the registration materials. Ordinarily, the specialist will not ask the applicant to verify that there is a signed written agreement between the parties designating the work as a work made for hire or to submit a copy of that agreement. However, the application may be questioned if the work does not appear to fall within one or more of the nine categories of works listed in the statutory definition of works made for hire.

*Examples:*

- An application for a travel guide names Mary Rimbaud as the author of the text and the work made for hire question is answered “no.” Jason Berta is listed as author of the illustrations and the work made for hire question is answered “yes.” The **copyright notice** reads “Text and Illustrations © 2011 Mary Rimbaud.” The registration specialist will communicate with the applicant. The copyright notice indicates that this may not be a **joint work** and that Mary may have hired or commissioned Jason to create the illustrations. If so, Mary should be named as the author of both the text and illustrations, rather than Jason.
- Katherine Chen submits an application to register a song. Katherine is named as the author and the work made for hire box has been checked “yes.” The **transfer statement** reads “I paid my sister Alice to write this song for me, but we don’t have a contract or anything since she’s a member of the family.” The registration specialist will communicate with the applicant. The work does not appear to satisfy the first part of the statutory definition, because it is unlikely that Alice is Katherine’s employee. The work does not satisfy the second part of the definition, because a song is not one of the nine categories of works that may be specially ordered or commissioned.

For more information about works made for hire see **Chapter 500**, Section 506.1.

### 614.2(B)(3) Naming the Employee or the Individual Who Actually Created the Work as the Author of a Work Made for Hire

If the work is a **work made for hire**, the employer or the party that ordered or commissioned the work should be named as the author. In other words, if the work made for hire was created by an employee acting within the scope of his or her employment, the employer should be identified as the author of the work, not the employee. Similarly, if the work made for hire was specially ordered or commissioned, the party that ordered or commissioned the work should be identified as the author of the work, not the individual who actually created the work. If it appears that the **applicant** has named an employee as the author of a work made for hire, the **registration specialist** will communicate with the applicant.

#### *Examples:*

- An application for an advertising brochure names Susanne Taylor as the author of “text and photographs.” The work made for hire question is answered “yes.” Argonne, Inc. is named as **copyright claimant** and the **transfer statement** reads “Susanne Taylor is Owner, President, and CEO of Argonne, Inc.” The brochure describes the company’s services and the **copyright notice** reads “© 2012 Argonne, Inc.” The registration specialist will communicate with the applicant. The specialist will explain that senior officers or owners of organizations may be considered employees if they prepared a work while acting within the scope of their duties. If the applicant confirms that Susanne created the work on behalf of Argonne, Inc., the company should be named as the author, the work made for hire box should be checked “yes,” and Susanne’s name should be removed from the application.
- An application is submitted for a screenplay, naming a screenwriter as the author and a production company as the copyright claimant. The work made for hire question has not been answered and no transfer statement has been provided. The registration specialist will communicate with the applicant to determine whether the production company hired the screenwriter to create this screenplay as a work made for hire or acquired copyright in this work through a written agreement with the screenwriter.
- An application names Jeremy Roe as author of “text, photographs.” The work made for hire question is answered “no.” Berger & Berger, LLC is named as claimant and the transfer statement reads “for hire agreement.” The registration specialist will communicate with the applicant. The application indicates that Berger & Berger hired Jeremy to create this work as a work made for hire. Therefore, the company should be listed as the author, the work made for hire question should be answered “yes,” and Jeremy’s name should be removed from the application.

The U.S. Copyright Office will accept an application that names the individual who actually created a work made for hire, provided that the employer or the party that ordered or commissioned the work is identified as the author and the relationship between the employer and the employee, or the relationship between the person or organization that ordered or commissioned the work and the individual who actually created the work, is clearly indicated.

*Example:*

- Lawrence Jeffries is a staff copywriter for Freemont Enterprises, Inc. Lawrence prepared a brochure that describes the company's newest product. The brochure is a work made for hire, because Jeffries prepared this work within the scope of his employment. Freemont Enterprises, Inc. should be named as the author of the work and the work made for hire box should be checked "yes." Although there is no need to provide Lawrence's name, the application will be accepted if it identifies the author as "Freemont Enterprises, Inc. employer of Lawrence Jeffries."

#### 614.2(B)(4) Volunteer Created Work Made for Hire

A work created by an individual volunteer(s) may or may not be considered a **work made for hire**, depending on the facts and circumstances of the case. If the application names an organization or company as the author, and if the work made for hire question has been answered "yes," the U.S. Copyright Office will not communicate with the **applicant** if it appears that the work was created by a volunteer.

*Example:*

- An application names Faith Church as the author of a **sound recording** and the work made for hire box is checked "yes." In the Note to Copyright Office field, the applicant states that the recording was created by the members of the church choir. The **registration specialist** will register the **claim** without communicating with the applicant.

#### 614.2(B)(5) Organization Named as the Author of a Work Made for Hire

If a legal entity, such as a corporation, limited liability company, limited partnership, limited liability partnership, foundation, university, or trust is named as the author of the work, the **registration specialist** will assume that the work is a **work made for hire**. This is due to the fact that an organization may be named as an author only if the work was created by the employees of that organization or if the organization specially ordered or commissioned the work as a work made for hire. In this situation the box marked "Is this author's contribution a work made for hire?" should be checked "yes." The application will be questioned if the box is checked "no."

*Examples: Application acceptable*

- An online application names Legal Beagle Publishing, Inc. as author of "revisions and additional text." The work made for hire question is answered "yes." The application will be accepted.
- A paper application names The University of Perth-Amboy as author. The work made for hire question should be checked "yes," but this portion of the application has been left blank. The registration specialist will register the **claim** on the assumption that the work was created for the University as a work made for hire.
- An application is submitted for a play. The **deposit copy** identifies Maryam Zamindar as the author of the work, but the application names Maryam LLC as the author and **claimant**. The work made for hire field has been checked



“yes,” and Maryam certifies the application as an authorized representative of Maryam LLC. The registration specialist will register the claim on the assumption that Maryam is an employee of Maryam LLC.

*Examples: Application questioned*

- The application names the author as First Baptist Church and the work made for hire question is answered “no.” The registration specialist will communicate with the **applicant**.
- The application names the author as Art Corp. and the work made for hire question is answered “no.” The registration specialist will communicate with the applicant. Likewise, the application would be questioned if the work made for hire question is answered “no” and the application identified the author as Art Inc., Art LLC, Art LLP, Art S.A., Art plc, Art A.G., Art GmbH, or the like.

#### **614.2(B)(6) Individual Named as Author of a Work Made for Hire**

When an **applicant** names an individual as the author (rather than a legal entity) and answers the **work made for hire** question “yes,” the **registration specialist** may communicate with the applicant if it appears unlikely that the work is a work made for hire, based on the Office’s experience or based on the information set forth in the **deposit copy(ies)** or elsewhere in the registration materials.

If the information in the registration materials suggests that the individual is the employer of another person, the specialist will assume that the work was created by the individual’s employee(s) while acting within the scope of their employment. If it appears that the individual may have commissioned the work, the specialist will assume that the work was specially ordered or commissioned by that individual, provided that the work falls within one or more of the nine categories of works listed in the statutory definition of works made for hire.

*Examples: Application acceptable*

- An application for a travel book containing text and illustrations names Roland Fingers as the author of the “text” and the work made for hire question is not answered. The application also names Roland as author of “illustrations” with the work made for hire question answered “yes.” Roland Fingers is listed in the deposit copy as the author of the text, but Jason Foote is named as the author of the illustrations. The registration specialist will register the **claim** without communicating with the applicant. The illustrations are considered a supplementary work, which is one of the nine categories of works that may be specially ordered or commissioned. Therefore, the specialist will assume that Roland and Jason signed a written agreement specifically stating that Jason would create the illustrations for Roland as a work made for hire.
- An application is submitted along with a published compact disc. The applicant names the performing artist Tammy Conklin as the author of the **sound recordings** that appear on the CD. The applicant also names Tammy as the author of the photograph that appears on the cover with the work made for hire box checked “yes.” The photograph appears to be a photo of the performing artist, and a statement on the CD identifies Donald Blake as the author of the photograph. The photograph could be considered a supplementary work,



which is one of the nine categories of works that may be specially ordered or commissioned. Therefore, the registration specialist will assume that Tammy and Donald signed a written agreement specifically stating that Donald would take the photograph as a work made for hire. The registration specialist will register the claim with an annotation, such as “basis for registration: unit of publication containing collective work and other component elements.”

- An application for a documentary names Tim Berger as the sole author of the work. The work made for hire question is answered “yes.” The credits at the end of the documentary name Tim as the sole producer and director of the work, along with other individuals who apparently contributed camerawork, writing, animation, and other forms of authorship. The registration specialist will register the claim without communicating with the applicant. Because a work created as part of a **motion picture** is one of the nine categories of works that may be specially ordered or commissioned, the specialist will assume that Tim signed a written agreement with the other individuals specifying that their contributions would be considered a work made for hire.

*Examples: Application questioned*

- Elsa Frankfurter is named as the author of an **architectural work** with the work made for hire box checked “yes.” The deposit copy contains a **copyright notice** stating “© 2011 Achtung GmbH.” Because a corporation is named in the copyright notice, the registration specialist may ask the applicant if Elsa created this work as an employee of Achtung GmbH. If so, the specialist will ask for permission to remove Elsa’s name from the application and to add the corporation’s name as the author and **claimant**.
- An application is submitted for a comic book. Josh Willoughby is named as the sole author of the work and the work made for hire box is checked “yes.” The copy names Josh as the author of the “text” and Harley Quince as the author of the “illustrations.” The registration specialist will communicate with the applicant. It appears that Josh hired Harley to create the illustrations pursuant to a work made for hire agreement, and that Josh is the sole author of the text. If that is the case, Josh should be named on the application as both the author of the text (work made for hire answered “no”) and the author of the illustrations (work made for hire answered “yes”).

For more information on works made for hire see **Chapter 500**, Section 506.1.

#### **614.2(B)(7) Individual and Incorporated Organization Named Together as the Authors of a Work Made for Hire**

If an individual and an incorporated entity (e.g., a corporation, a professional corporation, a limited liability company, etc.) are named together as the authors of the work, the **registration specialist** will conclude that the organization is a separate legal entity, rather than an assumed name or trade name for the individual (regardless of how the **work made for hire** question is answered).

As a general rule, the specialist will communicate with the **applicant** when both an individual and an incorporated entity are named together in the Name of Author field/space, because the identity of the author is unclear. Likewise, the specialist generally will communicate if the appli-

cation indicates that an individual is “doing business as” or “trading as” a corporation. Ordinarily, the specialist will not communicate if it is clear from the registration materials as a whole that the incorporated entity is the author and that the relationship between the individual and the entity is merely descriptive.

*Example: Application acceptable*

- An application names the author as “Faux-Mink, Inc., employer for hire of Abner Hess.” The work made for hire question is not answered. The registration specialist may register the **claim** without communicating with the applicant. The work appears to be a work made for hire, Faux-Mink, Inc. appears to be the author, and the reference to Abner Hess is merely descriptive.

*Examples: Application questioned*

- An application for a **computer program** names “Han Sung (dba GoferBroke, LLC)” as the author. The work made for hire box is not checked. The **deposit copy** contains redacted **source code** and the Note to Copyright Office states that the code contains trade secrets belonging to GoferBroke LLC. The registration specialist will communicate with the applicant to determine whether Han Sung prepared this work for GoferBroke as a work made for hire. If so, GoferBroke should be listed as the author of the work and the work made for hire box should be checked “yes.”
- Aristide Micheals submits an application for a webinar. The application names “Aristide of HTCommunication LLP” as the author and the **certification** indicates that Aristide is the president of this company. The videos contain a **copyright notice** in the name of HTCommunications LLP. The registration specialist will ask Aristide to clarify whether he prepared these works for HTCommunications as a work made for hire. If so, the company should be listed as the author of the work and the work made for hire box should be checked “yes.”
- An application names the author as “Richard Smith/Smith Publishing Company, Inc.,” and the work made for hire question has not been answered. The registration specialist will communicate with the applicant to clarify whether the work is a work made for hire and whether the author is Richard Smith or Smith Publishing Company, Inc.

## **614.2(B)(8) Individual and Unincorporated Organization Named Together as the Authors of a Work Made for Hire**

In some cases, an individual author uses an unincorporated organization to conduct his or her business (e.g., “Jackson Charles doing business as Charles Photography,” “Sophia Tomasco d/b/a Tomasco Studios,” “Lucas Fleming trading as Fleming Designs”). In such cases, the Office considers the individual and the organization to be the same legal entity. If the individual author created the work on behalf of his or her own unincorporated organization, the individual should be named as the author of the work and the **work made for hire** box should be checked “no.”

*Example:*

- Pamela Bethel is a songwriter who does business under the name “Patti Bell Music.” She submits an application naming Pamela Bethel as the author of

“music” and she responds to the work made for hire question by checking the box marked “no.” The **registration specialist** will register the **claim**.

As a general rule, the name of the author’s d.b.a. should not be provided in the Name of Author field/space. If the **applicant** wishes to include this information in the registration record, the d.b.a. should be provided in the Note to Copyright Office field. The registration specialist will add the name of the author’s d.b.a. to the **certificate of registration** and the **online public record**. In addition, the d.b.a. may be added as an index term if it is likely that users may use that term to search for the author’s works.

*Example:*

- Iskandar Hussain submits an application for a documentary. Iskandar names himself as the author with the work made for hire question answered “no.” In the Note to Copyright Office field he states: “Iskandar Hussain, d/b/a I Can Do It Productions.” Iskandar appears to be the author and the organization named in the Note to Copyright Office field appears to be his unincorporated business. The registration specialist will add the name “I Can Do It Productions” to the registration record along with an **annotation**, such as: “Regarding author information: dba added from Note to C.O.”

If an individual and an unincorporated organization are named together in the Name of Author field, the registration specialist may communicate with the applicant unless the application clearly states that the individual is “doing business as” (dba) or “trading as” the organization or that the unincorporated organization is “solely owned by” the individual.

*Examples:*

- An application is submitted for a video with “Arvo Robinson d.b.a. ActiviTEE” named as the author of this work and the work made for hire box checked “no.” The name that appears in the **copyright notice** is “ActiviTEE Films.” The registration specialist may register the claim, although the name of the d.b.a. should have been provided in the Note to Copyright Office field rather than the Name of Author field.

An application names “Associated Designs (Virginia McDonald)” as the author of a fabric design. The work made for hire question is answered “yes.” A statement on the **deposit copy** reads “All designs created by Virginia McDonald.” The registration specialist may communicate with the applicant, because it is unclear whether the author is Virginia McDonald or Associated Designs.

## 615 Anonymous and Pseudonymous Works

### 615.1 Anonymous Works

#### 615.1(A) What Is an Anonymous Work?

A work is considered an **anonymous** work if “no natural person is identified as author” on the copies or **phonorecords** of the work. **17 U.S.C. § 101**. If the author’s name appears on the copies or phonorecords, the work is not an anonymous work, even if the author does not wish to reveal his or her identity in the registration record. In such cases, the applicant should provide the au-

thor's real name in the application and the Anonymous box should not be checked. Likewise, a work does not qualify as an anonymous work based solely on the fact that the **applicant** cannot identify the person or persons who created the work.

The statute implies that anonymous works are limited to works created by natural persons. *Compare id.* (defining an "anonymous work" as "a work on the copies or phonorecords of which no natural person is identified as author") with **17 U.S.C. § 302(c)** (indicating that the term for an anonymous work may be based on the life of the author if his or her identity is revealed before the copyright expires). Therefore, the applicant should check the Anonymous box only if the author is a human being. If the author is a corporation, limited liability company, partnership, or other legal entity, the author's full name should be provided in the Name of Author field/space. If the applicant checks the Anonymous box or asserts that the author wishes to remain anonymous, the application may be questioned if the author appears to be a legal entity.

### 615.1(B) Completing the Application: Anonymous Works

**Applicants** are encouraged to provide the author's name in the application, even if the author's name does not appear on the copies or phonorecords of the work. Providing the author's name creates a clear record of authorship and ownership of the copyright, and it may extend or reduce the term of the copyright, depending on the circumstances. Ordinarily, the copyright for an **anonymous** work endures for a term of 95 years from the year of **publication** or 120 years from the year of creation, whichever expires first. **17 U.S.C. § 302(c)**. If the author's identity is revealed in the registration record, the copyright will endure until 70 years after the author's death. *Id.*; see also **H.R. Rep. No. 94-1476, at 137 (1976)**, reprinted in 1976 U.S.C.C.A.N. 5659, 5753.

If the applicant provides the author's name in the application, the registration specialist will assume that the applicant intended to reveal the author's identity. Therefore, the specialist will not ask the applicant to check the box marked "Anonymous," even if the work satisfies the statutory definition for an anonymous work.

If the author's name does not appear on the copies or phonorecords of the work, the applicant is not required to provide the author's name in the application. Instead, the applicant may leave the Name of the Author field/space blank and check the box marked "Anonymous." (If the applicant fails to provide the author's name and fails to check the Anonymous box in an online application, the application will not be accepted by the electronic registration system.)

If the applicant does not provide the author's name, the applicant should identify the year that the work was created, and if the work has been published, the applicant should provide the date of publication. In addition, the applicant should provide the author's nation of citizenship and/or nation of domicile, even if the author's name has not been disclosed. The Office may use this information to determine if the work is eligible for copyright protection in the United States. If the applicant fails to provide this information, the application may be questioned.

If the author and the **copyright claimant** are the same individual and if that individual does not wish to provide his or her real name anywhere in the application, the applicant may state "Anonymous" in the Name of Author field/space, and may provide a pseudonym in the field/spaces for the Name of Claimant, Rights and Permissions, Correspondent, and Certification.

As described in Section **615.3** below, the information provided on the application becomes part of the public record. Therefore, if the work satisfies the statutory definition of an anonymous

work and if the applicant does not wish to disclose the author's real name, the applicant should check the Anonymous box instead of providing the author's real name in the application.

*Example:*

- Joseph Cline is the author of a **literary work** titled *Prime Color*. Cline's name did not appear on the first edition of the work. Instead, the first edition stated that the work was written "By Anonymous." The U.S. Copyright Office will register the first edition as an anonymous work if the applicant identifies the author as "Anonymous" and/or checks the Anonymous box. In the alternative, the Office would accept an application that names Joseph Cline as the author (regardless of whether the Anonymous box has or has not been checked).

## 615.2 Pseudonymous Works

### 615.2(A) What Is a Pseudonymous Work?

A work is considered a **pseudonymous** work if "the author is identified under a fictitious name" on the copies or **phonorecords** of the work. **17 U.S.C. § 101**.

The statute implies that pseudonymous works are limited to works created by an individual. *Compare id.* (definition of "pseudonymous work") with **17 U.S.C. § 302(c)** (indicating that the term for a pseudonymous work may be based on the life of the author if his or her identity is revealed before the copyright expires). Therefore, the **applicant** should check the Pseudonymous box only if the author is a human being. If the author is a corporation, limited liability company, partnership, or other legal entity, the author's full name should be provided in the Name of Author field/space. If the applicant checks the Pseudonymous box, the application may be questioned if the author appears to be a legal entity.

A pseudonym must be a name. The U.S. Copyright Office will not accept a number or symbol as a pseudonym.

The name of a performing group is not a pseudonym and should not be provided in the Name of Author field/space. Instead, applicants should provide the names of the individuals who created or performed the work described in the application, even if the copies or phonorecords of the work indicate that the work was created or performed by a performing group as a whole. Providing the names of the individual members of the performing group creates a clear record of authorship, given that the members of the performing group may change over time. For additional information concerning this issue, see **Chapter 800**, Section 802.8(D) and 803.8(C).

Similarly, the name of the author's d.b.a. ("doing business as") designation is not a pseudonym and should not be provided in the Name of Author field/space.

If the applicant would like to include the name of a performing group or the name of the author's d.b.a. in the registration record, that name should be provided in the Note to Copyright Office field or in a cover letter. The registration specialist will add the name of the author's performing group to the record as an index term. The specialist will include the name of the author's d.b.a. on the **certificate of registration** and the **online public record**, and will add that name as an index term if it is likely that members of the public may use the d.b.a. to search for the author's works.

*Example:*

- An application is submitted to register a musical work. The authors are named on the application as Jerobi Manor, Brett Chargon, and Alaina Kraft. The pseudonymous box has not been checked. In the Note to Copyright Office field the applicant states: “Jerobi, Brett, and Alaina are doing business under the name “Three Times the Charm.” The registration specialist will add the name “Three Times the Charm” to the certificate and the online public record with an **annotation**, such as: “Regarding author information: dba added from Note to C.O.” In addition, the specialist may add that name to the record as an index term.

**615.2(B) Completing the Application: Pseudonymous Works**

If the author’s real name appears anywhere on the copies or **phonorecords** (including the **copyright notice**) the work is not a **pseudonymous** work, even if the author does not wish to reveal his or her identity in the registration record and even if the author is generally known by his or her pseudonym. **17 U.S.C. § 101** (definition of “pseudonymous work”). In this case, the applicant should provide the author’s real name in the application and the Pseudonymous box should not be checked. Likewise, a work does not qualify as a pseudonymous work based solely on the fact that the **applicant** cannot identify the person or persons who created the work.

Applicants are encouraged to provide the author’s real name in the application, even if the author’s name does not appear on the copies or phonorecords of the work. In the alternative, the applicant may provide the author’s full name and the author’s pseudonym, provided that the application clearly indicates which is the real name and which is the pseudonym (*e.g.*, “Samuel Clemens, whose pseudonym is Mark Twain”).

Providing the author’s real name creates a clear record of authorship and ownership of the copyright, and it may extend or reduce the term of the copyright, depending on the circumstances. Ordinarily, the copyright for pseudonymous work endures for a term of 95 years from the year of **publication** or 120 years from the year of creation, whichever expires first. **17 U.S.C. § 302(c)**. However, if the author of the work is a natural person and if the identity of the author is revealed in the registration record, the copyright will endure until 70 years after the author’s death. *Id.*; *see also*, **H.R. REP. NO. 94-1476, at 137 (1976)**, *reprinted in* 1976 U.S.C.A.N. 5659, 5753.

If the applicant provides the author’s real name in the application, even though it does not appear anywhere on the deposit copy(ies), the registration specialist will assume that the applicant intended to reveal the author’s identity. In this situation, the specialist will not ask the applicant to check the box marked “Pseudonymous,” even if the work satisfies the statutory definition for a pseudonymous work.

If a fictitious name appears on the copies or phonorecords of the work, the applicant is not required to provide the author’s real name in the application. Instead, the applicant may provide the author’s pseudonym in the field marked Pseudonym (in the case of an online application) or in the Name of the Author field/space (in the case of an online or paper application). In such cases, the applicant should check the box marked “Pseudonymous” to indicate that the applicant intends to register a pseudonymous work. (If the applicant fails to complete the Pseudonym field, and fails to check the Pseudonymous box in an online application, the application will not be accepted by the electronic registration system.)

If the author does not wish to reveal his or her identity anywhere in the application, the applicant may put the author's pseudonym in the fields/spaces for the Name of Claimant, Rights and Permissions, Correspondent, and/or Certification.

As described in Section 615.3 below, the information provided on the application will become part of the public record. Therefore, if the work satisfies the statutory definition of a pseudonymous work and if the applicant does not wish to disclose the author's real name, the applicant should provide the author's pseudonym in the application instead of providing the author's real name.

*Examples:*

- Steven Kingsley is the author of a **literary work** titled *Running Woman*, which was published by New American Library. Kingsley's name did not appear on this edition of the work. Instead, the author was identified as "Rick Buchman." The applicant names Rick Buchman as the author and **claimant**, and checks the Pseudonymous box. The Office will register the work as a pseudonymous work. In the alternative, the Office would accept an application that named the author as "Steven Kingsley, whose pseudonym is Rick Buchman" (regardless of whether the Pseudonymous box has or has not been checked).
- An application is submitted for a poster containing artwork and text. The applicant named "Deacon of Chocolate City" as the author of the work and checked the Pseudonymous box. Dennis Rickman is named as the **copyright claimant**. Because the applicant did not provide a **transfer statement**, the **registration specialist** will assume that Dennis Rickman is the author of this work, that he created this work under his pseudonym, and that the applicant intended to reveal the author's identity in the registration record.

## 615.2(C) Name of the Author Omitted

As a general rule, if the **applicant** checks the Pseudonymous box but fails to provide the author's pseudonym or the author's real name in the Name of Author field/space, the **registration specialist** will communicate with the applicant. In the alternative, the specialist may add the name that appears on the **deposit copy(ies)** if that name is clearly identified as the author's pseudonym.

## 615.3 Privacy Concerns

Because registration records are open to the public, an **applicant** should not disclose the author's real name or address in an application for an **anonymous** or **pseudonymous** work if the author does not wish to make that information public. If the applicant discloses the author's identity or the author's address on the application, that information will appear on the **certificate of registration**. In addition, this information will appear in the **online public record** for the work, which may be accessed by anyone who searches for the work on the Office's website. The Office will not remove the author's name from the registration record once a certificate of registration has been issued.

Once a certificate of registration has been issued, the Office cannot remove the author's name from the registration record or replace it with a pseudonym. The author, claimant, or their respective representatives may submit a written request to the Office to substitute the author's current legal name for the name shown in the online public record (but not the offline public



record). To do so, the requesting party must submit an affidavit together with a court order granting the legal name change, and must pay the appropriate fee for this service. For more information on this procedure, see [Chapter 1800](#), Section 1805.

For a general discussion of privacy issues, see [Chapter 200](#), Section 205.

## 616 Year of Author's Birth and Death

### 616.1 The Author's Year of Birth

When completing an application to register a work with the U.S. Copyright Office, the [applicant](#) will be asked to identify the year that the author was born. This information may be useful in identifying the author of the work. Providing the author's year of birth is optional and an application will be accepted even if this portion of the application is left blank.

If the applicant provides the author's year of birth, the [registration specialist](#) will not question that date unless it is obviously wrong (e.g., the date of birth provided is the current year).

#### 616.1(A) Year of Birth Not Required for Works Made for Hire

As discussed in Section [614.1\(D\)](#), the author's year of birth should not be provided if the work was created as a [work made for hire](#).

#### 616.1(B) Privacy Concerns

Because registration records are open to the public, an [applicant](#) should not disclose the author's year of birth on the application if the author does not wish to make that information public. If the applicant discloses the author's date of birth on the application, the year of birth will appear on the [certificate of registration](#), which will be made available to the public upon request. In addition, the author's year of birth will appear in the [online public record](#) for the work, which may be accessed by anyone who searches for the work on the Office's website.

For a general discussion of privacy issues, see [Chapter 200](#), Section 205.

### 616.2 The Author's Year of Death

When completing an application to register a work with the U.S. Copyright Office, the [applicant](#) will be asked if the author of the work is deceased. The applicant should provide a year of death if the work was created by a natural person who is deceased as of the date that the application is filed. If the work was created by two or more authors, the applicant should provide a year of death for each individual who is deceased. [17 U.S.C. § 409\(2\)](#). The author's year of death is required because the term of copyright for certain [unpublished](#) works created before 1978 and for all works created after 1978 is based on the year that the author died (unless the work is a [work made for hire](#), an [anonymous](#) work, or a [pseudonymous](#) work). [17 U.S.C. §§ 302\(a\), \(b\); 303\(a\)](#).



As a general rule, the **registration specialist** will not question a year of death unless it is obviously wrong (e.g., a year of death occurring before the year that the work was created).

If the applicant fails to provide a year of death in the application and if the information in the **deposit copy(ies)** or elsewhere in the registration materials indicate that the author may be deceased, the registration specialist may communicate with the applicant if that information could be used to determine the term of copyright.

*Examples:*

- An application is submitted for a photograph. Jane Freeman is named as the author and The Estate of Jane Freeman is named as the **copyright claimant**. Because the author appears to be deceased, the registration specialist will ask the applicant to provide the author's year of death.
- An application for an autobiography titled *Out of Australia* names Georgette Firth as the author and states that the work was **published** in 2013. A statement on the deposit copies indicates that the author died in 2009. The registration specialist may communicate with the applicant to request the author's year of death.
- An application is submitted for a book of cartoons featuring Charlie Brown, Snoopy, and other characters from the "Peanuts" comic strip. The application names Charles Schulz as the author of the work and states that the work was published in 2013. The registration specialist is aware that Mr. Schulz is deceased. Therefore, he or she will communicate with the applicant to request the author's year of death.

Applicants are strongly encouraged to provide the author's year of death if the work was created by a human being and if the work is being registered as an anonymous or pseudonymous work. The Office will accept an application if the applicant fails to provide this information, because the term of copyright for an anonymous or pseudonymous work may be calculated based on the year the work was created or the year the work was published. **17 U.S.C. § 302(c)** Providing the author's year of death is useful, because if the author's real name is revealed in records maintained by the Office, the term of copyright will be calculated based on the year of the author's death, rather than the year of creation or publication. *Id.*; see also, **H.R. REP. NO. 94-1476, at 137 (1976)**, reprinted in 1976 U.S.C.C.A.N. 5659, 5753.

By contrast, the applicant should not provide the author's year of death if the work is being registered as a work made for hire. The year of death is not required in this situation, because the term of copyright for a work made for hire is based on the year the work was created or the year the work was published.

For a definition and discussion of anonymous works and pseudonymous works, see Sections **615.1** and **615.2**. For a definition and discussion of works made for hire, see **Chapter 500**, Section 506.

### **616.3 Completing the Application: Author's Year of Birth and Death**

If the **applicant** chooses to provide the author's year of birth in an online application, the applicant should provide only the author's birth year. The online system will not accept an entry that contains the month, day, and year that the author was born. Likewise, if the author is deceased,

the applicant should list only the year the author died, rather than the month, day, and year of the author's death.

If the applicant chooses to provide the author's year of birth in a paper application, the applicant should enter only the author's birth year in the space marked Year Born. If the applicant gives the month, day, and year of birth, the **certificate of registration** and online record will reflect only the year of birth. If the author is deceased, the applicant should list only the author's year of death in the space marked Year Died. If the applicant gives the month, day, and year of death, the certificate of registration and online record will reflect only the year of death.

If the applicant cannot determine the exact year of birth and/or death, the applicant may provide a good faith estimate qualified by the phrase "on or about," "approximately," or the like. When completing an online application, this statement may be provided in the Note to Copyright Office field. In a paper application this statement may be provided on the application itself or in a cover letter. In both cases, the registration specialist will add an **annotation** to the registration record, such as: "Regarding author information: applicant states author's year of birth is 'approximately 1952.'"

## 617 Citizenship and Domicile of the Author

### 617.1 What Is the Author's Citizenship and Domicile?

The application should identify the citizenship and/or domicile of the author, regardless of whether the work described in the application is an **anonymous** work or a **pseudonymous** work, or whether the work was created by a natural person or a corporation, a limited liability company, a limited partnership, or a similar legal entity. **17 U.S.C. § 409(2), (3)**. This information may be used to determine whether the work is eligible for copyright protection under U.S. copyright law.

**Unpublished** works are eligible for copyright protection in the United States, but **published** works may not be eligible if they are first published in, or by authors of, countries that have not entered into a copyright treaty with the United States. **17 U.S.C. § 104(a), (b)**. For information concerning these eligibility requirements, see **Chapter 2000**, Section 2003.

The terms "citizenship" and "nationality" mean the same thing. Specifically, they mean that the author is a citizen of a particular country, or that the author owes permanent allegiance to a particular country, even though he or she is not a citizen of that nation.

The author's domicile is the country where the author has a fixed and permanent residence, where the author intends to maintain his or her residence for an unlimited time, and whenever absent, where the author intends to return. Mere residence is not the equivalent of domicile and does not provide a basis for establishing eligibility.

### 617.2 Determining the Author's Citizenship or Domicile for a Published Work

If the work has been **published**, the **applicant** should provide the author's citizenship and domicile as of the date that the work was first published. The fact that the author's citizenship and/or domicile may have changed after the work was first published is irrelevant. For example, if the author was a Tunisian citizen when the work was first published and subsequently became

a French citizen, the applicant should identify the author's country of citizenship as "Tunisia" rather than "France."

### 617.3 Determining the Author's Citizenship or Domicile for a Work Made for Hire

If the work is a **work made for hire** the **applicant** should indicate the citizenship and/or domicile of the employer or the person or entity that ordered or commissioned the work. For example, if the work was created by an employee acting within the scope of his or her employment and the employer is a legal entity, the applicant should identify the nation in which the employer entity is incorporated or is domiciled (rather than the employee's country of citizenship or domicile). If the work was specially ordered or commissioned as a work made for hire, the applicant should provide citizenship or domicile information for the party that ordered or commissioned the work (rather than the individual who actually created the work).

For questions regarding nationality of a legal entity, see **Chapter 2000**, Section 2005.5. For a definition and discussion of works made for hire, see **Chapter 500**, Section 506.

### 617.4 Determining the Author's Citizenship or Domicile for Anonymous and Pseudonymous Works

The **applicant** should provide the author's citizenship or domicile, even if the author's real name is not provided in the application and does not appear on copies or **phonorecords** of the work.

If the applicant fails to provide this information in an online application, the application will not be accepted by the electronic registration system. If the applicant fails to provide this information on a paper application, the application will be questioned if there is no other basis for establishing that the work is eligible for copyright protection under U.S. copyright law.

For a discussion of **anonymous** and **pseudonymous** works, see Sections **615.1** and **615.2**.

### 617.5 Determining the Author's Citizenship or Domicile for Compilations and Derivative Works

If the work described in the application is a **derivative work**, the **applicant** should provide the citizenship and/or domicile of the author or authors who created the new material and/or revised material that appears in the derivative work. If the work described in the application is a **compilation**, the applicant should list the citizenship and/or domicile of the author or authors who selected, coordinated, and/or arranged the preexisting material or data that appears in the compilation.

As a general rule, the applicant need not provide citizenship or domicile information for the author or authors who created any preexisting material or data that may appear in a derivative work or a compilation.

For a general discussion of derivative works and compilations, see **Chapter 500**, Sections 507 and 508.

### 617.6 Completing the Application: Citizenship and Domicile

When completing the Authors screen in the online application the **applicant** should identify the nation of citizenship and domicile for each author named in the application. Specifically, the applicant should select one of the countries listed in the drop down menu under the headings Citizenship and Domicile. If the applicant fails to complete this portion of the application, the application will not be accepted by the electronic registration system.

When completing a Single Application the applicant should provide this information on the screen marked Author.

When completing a paper application, the citizenship and domicile for each author named in the application should be entered in space 2 in the spaces marked “Citizen of \_\_\_\_\_” and “Domiciled in \_\_\_\_\_.”

If the author is a citizen of or domiciled in more than one country, the applicant may provide the name of each country where the author is a citizen or is domiciled. In the case of an online application, the applicant may provide the name of one country on the Author screen and the names of the other countries may be provided in the Note to Copyright Office field. In the case of a paper application, the name of each country may be provided on the application itself, on a continuation sheet, or in a cover letter. In the alternative, the applicant may provide the name of any country that establishes that the work is eligible for copyright protection under U.S. copyright law.

If the author is a stateless person, the applicant may select “no place” from the drop down menu in the online application or state “no place” or “stateless” in the paper application.

If the citizenship and domicile for the author is unknown, the applicant may select “not known” from the drop down menu in the online application. When completing a paper application, the applicant may leave this portion of the application blank or may state “not known.”

### 617.7 Examination Guidelines: Citizenship and Domicile

This Section discusses the U.S. Copyright Office’s practices and procedures for examining the Citizenship and Domicile field/space in an online application or a paper application.

#### 617.7(A) Citizenship and Domicile Unclear

As a general rule, the **registration specialist** will accept a statement concerning the author’s citizenship or domicile, unless it is clearly inconsistent with the facts set forth in the registration materials or other information known to the U.S. Copyright Office.

*Examples:*

- The application states that the author John Germaine is a U.S. citizen and that the work has been **published**, but fails to provide a nation of first publication. In the Note to Copyright Office field the **applicant** explains that the author has applied for citizenship, but has not been naturalized. The registration specialist will communicate with the applicant to determine if there is a basis for establishing that the work is eligible for copyright protection under U.S. law.

- An application for a work by a prominent European politician states that the author is domiciled in the United States. The application also states that the work has been published, but fails to identify the nation of first publication. Because the author does not appear to be domiciled in the United States, the registration specialist will communicate with the applicant to determine if there is a basis for establishing that the work is eligible for copyright protection under U.S. law.

If the applicant provides the name of a city, state, and country in the Citizenship or Domicile field/space, the registration specialist may include the name of the state and/or country but will remove the name of the city from the registration record.

If the applicant provides the name of a city, state, territory, or other political subdivision rather than the name of a country, the application will be accepted if the author's nation of citizenship or domicile is obvious or if there is another basis for establishing that the work is eligible for copyright protection under U.S. copyright law. For example, if the applicant states that the author is a citizen of "Puerto Rico" or "Scotland," the specialist will accept the application, although "United States" or the "United Kingdom" would be preferable.

#### 617.7(B) Citizenship and Domicile in Multiple Countries

If the application indicates that the author is a citizen of or domiciled in multiple countries, the names of the additional countries may be added to the registration record with an **annotation**, such as: "Regarding citizenship/domicile: application states Trinidad and the United States."

#### 617.7(C) Stateless Persons

If the application states "no place" in the Citizenship or Domicile field/space, the **registration specialist** will register the **claim** without communicating with the **applicant** on the assumption that the author is a stateless person. **17 U.S.C. § 104(b)(1)**.

#### 617.7(D) Citizenship and Domicile Unknown

If the **applicant** states that the author's citizenship or domicile is "not known" or fails to complete this portion of the application, the application may be accepted if that information is provided elsewhere in the registration materials or if the **registration specialist** determines that the work is otherwise eligible for copyright protection under U.S. copyright law.

*Examples:*

- An application is submitted on **Form PA** for a musical work titled "Do You See What I See?" The application states that the work has been **published** in New Zealand, states that Beth McFarlane is the author of the work, and states that the author's citizenship and domicile is "not known." The registration specialist will register the **claim** without communicating with the applicant. Although the applicant failed to specify the author's nation of citizenship or domicile, the work is eligible for copyright protection under U.S. law because it was published in a country that has entered into a copyright treaty with the United States. **17 U.S.C. § 104(b)(2)**.

- An application is submitted on **Form VA** for an **unpublished** work titled “I See You.” The application names Stu Millbrook as the author and **claimant**, but no information is given for the author’s domicile and citizenship. The registration specialist will register the claim without communicating with the applicant. Although the applicant failed to specify the author’s citizenship or domicile, the work is eligible for copyright protection under U.S. law because the work is unpublished. **17 U.S.C. § 104(a)**.

If there appears to be no basis for establishing eligibility, the specialist will communicate with the applicant. If the applicant is unable to identify the author’s citizenship and domicile, registration may be refused if that is the only basis for establishing that the work is eligible for copyright protection under U.S. law.

*Examples:*

- The applicant fails to identify the author’s citizenship or domicile, but states that the work was first published in Afghanistan. The registration specialist will communicate with the applicant, because a work first published in that country may be ineligible for copyright protection in the United States.
- The application states that the author’s citizenship and domicile and the nation of first publication are “not known.” The registration specialist will communicate with the applicant, because it is unclear whether the work is eligible for copyright protection in the United States based on the information provided.

## **618 Author Created / Nature of Authorship**

This Section discusses the procedure for asserting a **claim** to copyright in a work of authorship.

### **618.1 Asserting a Claim to Copyright**

To register a work of authorship the **applicant** must file an application that clearly identifies the **copyrightable** authorship that the applicant intends to register, and the applicant must assert a **claim** to copyright in that authorship. The information provided in the application defines the claim that is being registered, rather than the information provided in the **deposit copy(ies)** or elsewhere in the registration materials.

When completing an online application, the applicant should identify the copyrightable authorship that the applicant intends to register on the Authors screen in the field marked Author Created. (When completing the Single Application the applicant should provide this information on the Author screen in the field marked Author Created.) When completing a paper application, the applicant should provide this information on space 2 of the application under the heading Nature of Authorship. For guidance on completing this portion of the application, see Section **618.4**.

The U.S. Copyright Office registers claims to copyright in works of authorship. As a general rule, the Office will issue one registration for each work that is submitted for registration. The **registration specialist** may examine the individual elements or components of a work to determine if the work as a whole contains a sufficient amount of creative expression to warrant

registration. However, the Office will not issue separate registrations for the constituent elements or components of a work of authorship. Likewise, the Office will not issue separate registrations to each author who contributed copyrightable expression to a work of authorship (except as contributions to a collective work or derivative works).

As a general rule, the specialist will register a claim to copyright if the claim is clearly supported by the information provided in the application and the deposit copy(ies), and if the other formal and legal requirements have been met. If the Author Created field or the Nature of Authorship space is completed incorrectly, the registration specialist may register the claim with an **annotation** if the specialist determines that the claim is clear from the registration materials as a whole. If the claim is unclear, the registration specialist will communicate with the applicant.

The information provided in the Author Created field or the Nature of Authorship space will appear on the **certificate of registration** in a space marked Author Created and in the **online public record** in the field marked Authorship (regardless of whether the applicant submits an online application or a paper application).

See **Corrections and Amplifications of Copyright Registrations; Applications for Supplementary Registration**, 63 Fed. Reg. 59,235, 59,235 (Nov. 3, 1998) (“The Copyright Office follows the general policy of requiring all authors and copyright claimants to supply information, consistent with 17 U.S.C. § 409, concerning the authorship being claimed in the application for registration.”).

## 618.2 Limiting the Claim to Copyright

A registration only covers the new material that the author contributed to the work. As explained in Section 621, a registration does not extend to any **unclaimable material** that may appear in the work, namely:

- Previously **published** material.
- Previously registered material (including material that has been submitted for registration but has not been registered yet).
- Material that is in the **public domain**.
- **Copyrightable** material that is owned by another party (*i.e.*, an individual or entity other than the **copyright claimant**).

If the work contains an appreciable amount of unclaimable material, the **applicant** must exclude that material from the **claim** and limit the application to the new copyrightable material that the author contributed to the work. When completing an online application the applicant should provide this information on the Limitation of Claim screen; when completing a paper application, the applicant should provide this information in spaces 5 and/or 6(a) and 6(b) of the application.

For a discussion of the U.S. Copyright Office’s practices and procedures for limiting a claim to copyright, see Section 621.

### 618.3 The Relationship Between the Author Created / Limitation of Claim Fields in the Online Application and the Relationship Between Spaces 2, 5, 6(a), and 6(b) in the Paper Application

As a general rule, a **claim** to copyright is defined by the information provided in the Author Created field (in the case of an online application) or in the Nature of Authorship space (in the case of a paper application). Therefore, all of the **copyrightable** material that the **applicant** intends to register should be identified in these fields/spaces.

When an applicant excludes material from the claim and limits the application to the new copyrightable material that the author contributed to the work, the claim to copyright is defined by the information provided in the New Material Included field of the online application or the information provided in space 6(b) of the paper application as modified by the material excluded field/space. Therefore, all of the new copyrightable material that the applicant intends to register should be described in the New Material Included field or in space 6(b), as applicable.

### 618.4 Completing the Application: Author Created / Nature of Authorship

This Section provides guidance on completing the Author Created field in the online application and the Nature of Authorship space in the paper application. For guidance on completing an application to register a **derivative work**, a **compilation**, or a **collective work**, see Sections 618.5, 618.6, and 618.7. For guidance on completing an application to register specific types of **literary works**, **works of the performing arts**, and visual art works, see **Chapters 700, 800, and 900**.

#### 618.4(A) The Online Application: Author Created Field

When completing an online application, the **applicant** should identify the authorship that the applicant intends to register on the Authors screen by checking one or more of the boxes in the Author Created field that accurately describe the authorship that is owned by the **copyright claimant**. (When completing a Single Application the applicant should provide this information on the Author screen in the Author Created field.)

The options for each type of work are listed below:

##### *Literary Works*

- Text
- **Computer program**
- Photograph(s)
- Artwork

##### *Works of the Visual Arts*

- Photograph
- 2-Dimensional artwork
- Jewelry design



- Sculpture
- **Architectural Work**
- Technical Drawing
- Map

*Works of the Performing Arts*

- Music
- Lyrics
- Text
- Musical Arrangement

*Sound Recordings*

- **Sound Recording**

*Motion Pictures and Audiovisual Works*

- Entire **motion picture**
- Production
- Cinematography
- Direction
- Editing
- Script/Screenplay

*Single Issue of a Serial Publication*

- Compilation
- Contribution(s) to a **Collective Work** (e.g., an article)

For a definition and discussion of these terms, see Section **618.4(C)**. For representative examples that demonstrate how to complete the Author Created field, see Section **618.4(D)**.

As a general rule, the U.S. Copyright Office will accept any of these terms or any combination of these terms, provided that they accurately describe the **copyrightable** authorship being claimed. If the information provided in the Author Created field is contradicted by the information provided elsewhere in the registration materials, the **registration specialist** will communicate with the applicant.

The applicant should check the boxes that describe the authorship created by the author(s) named in the application that is owned by the individual(s) or entity(ies) who are named in the application as the **copyright claimant(s)**. The applicant should not assert a **claim** in material created by authors who are not named in the application, material that is not owned by the copyright claimant, material that will not be submitted for registration, or material that does not appear in the work. Likewise, the applicant should not assert a claim in any material that is uncopyrightable or **de minimis**. For information concerning claims in uncopyrightable or *de minimis* material, see Sections **618.8(C)** and **618.8(D)**.

*Example:*

- An application is submitted for a multimedia work that contains artwork, photographs, and a map. The copyright claimant owns the copyright in the artwork, but does not own copyright in the other material that appears in the work. In the Author Created field the applicant should check the box for “2-D artwork,” but should not check the boxes for “photograph(s)” or “map.” Instead, the applicant should exclude that material from the claim using the procedure described in Section 621.8.

The applicant should check the boxes that identify the specific type of authorship that the applicant intends to register. For example, if the applicant intends to register a screenplay or a computer program, the applicant should check the boxes marked “script/screenplay” or “computer program,” rather than the boxes marked “editing” or “text.” Likewise, if the applicant intends to register an atlas or a necklace, the applicant should check the boxes marked “map” or “jewelry design,” rather than the boxes marked “sculpture” or “2-D artwork.”

If the terms provided in the checkboxes do not fully describe the copyrightable authorship that the applicant intends to register, the applicant should provide a more specific description in the “Other” field.

*Examples:*

- The applicant intends to register the introduction to a travel guide. The applicant may assert a claim to copyright in this authorship by checking the box marked “text” in the Author Created field or by stating “text of introduction” in the Author Created / Other field.
- The applicant intends to register a short story which was **published** on pages 59–77 of an anthology. The applicant may assert a claim to copyright in this authorship by checking the box marked “text” in the Author Created field or by stating “text of story appearing on pages 59–77” in the Author Created / Other field.
- The applicant intends to register a fabric design. The applicant may assert a claim to copyright in this authorship by checking the box marked “2-D artwork” in the Author Created field or by stating “fabric design” in the Author Created / Other field.
- The applicant intends to register the artwork that appears on the surface of a handbag. The applicant may assert a claim to copyright in this authorship by checking the box marked “2-D artwork” in the Author Created field or by stating “artwork applied to handbag” in the Author Created / Other field.
- The applicant intends to register some of the photographs that appear in a coffee table book. The applicant may assert a claim to copyright in this authorship by checking the box marked “photograph(s)” in the Author Created field or by stating “some photographs” in the Author Created / Other field.
- The applicant intends to register a comedy sketch. The applicant may assert a claim to copyright in this authorship by checking the box marked “script/screenplay” or by stating “comedy sketch” in the Author Created / Other field.

- The applicant intends to register a ballet. The applicant may assert a claim to copyright in this authorship by stating “**choreographic work**” in the Author Created / Other field.

Currently, the total amount of text that may be provided in the Author Created / Other field is limited to 100 characters. If more space is required, the applicant should provide the additional information in the Note to Copyright Office field.

#### 618.4(B) Paper Applications: Nature of Authorship Space

When completing a paper application, the **applicant** should identify the authorship that is owned by the **copyright claimant** that the applicant intends to register. The applicant should not assert a **claim** in material that is not owned by the copyright claimant, material that was not created by the author(s) named in the application, material that will not be submitted for registration, or material that does not appear in the work. Likewise, the applicant should not assert a claim in any material that is uncopyrightable or **de minimis**. For information concerning claims in uncopyrightable or *de minimis* material, see Sections 618.8(C) and 618.8(D).

When completing a paper application using **Form VA**, the applicant should check one or more of the boxes in space 2 that accurately describe the authorship that the applicant intends to register. When completing a paper application using **Forms TX, PA, SR, or SE**, the applicant should provide a brief statement that accurately describes the authorship that will be submitted for registration. This statement should be provided in space 2 of the application under the heading Nature of Authorship. If the applicant needs more space to provide a complete and accurate description of the claim, the applicant should complete and submit as many continuation sheets as necessary.

The U.S. Copyright Office may accept any of the terms listed below or any combination of those terms that are not redundant or duplicative (e.g., “text” and “**computer program**” when support for each term is nonexistent), provided that they accurately describe the **copyrightable** authorship being claimed. In some cases, the Office may accept variant forms of these terms. If the statement provided in the Nature of Authorship space is contradicted by the information provided in the **deposit copy(ies)** or elsewhere in the registration materials, the **registration specialist** will communicate with the applicant.

For a definition and discussion of the following terms, see Section 618.4(C). For representative examples that demonstrate how to complete the Nature of Authorship space, see Section 618.4(D).

##### *Literary Works / Form TX*

- Text
- Photograph(s)
- Artwork
- **Computer program**

*Works of the Visual Arts / Form VA.* When completing a paper application using **Form VA**, the applicant should check one or more of the boxes in space 2 that accurately describe the authorship that the applicant intends to register. The options include:

- 2-dimensional artwork
- Photograph(s)
- 3-dimensional sculpture
- **Architectural work**
- Jewelry design
- Map
- Technical drawing
- Reproduction of work of art
- Text

*Works of the Performing Arts / Form PA*

- Music
- Lyrics
- Text
- Musical arrangement
- **Choreographic work**
- **Pantomime**

*Sound Recordings / Form SR*

- **Sound recording**

*Motion Pictures or Audiovisual Works / Form PA*

- Entire **motion picture**
- Production
- Cinematography
- Direction
- Script
- Screenplay
- Audiovisual material

*Single Serial Issue (i.e., a single issue of a serial publication) / Form SE*

- Compilation
- Contribution(s) to a **collective work**
- Text
- Photograph(s)
- Artwork

### 618.4(C) Recommended Terminology for Asserting a Claim to Copyright

This Section provides a definition and discussion of the various terms that may be used to assert a **claim** to copyright in the Author Created field or the Nature of Authorship space.

- *Architectural work.* This term may be used to describe a work consisting of the design of a building, including the overall form as well as the arrangement and composition of spaces and elements in the design. By contrast, the blueprints or architectural plans for an **architectural work** should be described as a technical drawing. A technical drawing can be used to support either (i) an architectural work, or (ii) pictorial or graphic authorship in a technical drawing (*i.e.*, the design or plans themselves as distinct from the architectural work). For a discussion of the specific practices and procedures for registering technical drawings and architectural works, see **Chapter 900**, Sections 922 and 923.
- *2-D artwork, 2-dimensional artwork.* This term may be used to describe the authorship in a pictorial or graphic work. For example, it may be used to describe two-dimensional artwork appearing in paintings, drawings, collages, stencils, patterns, posters, calendars, games, commercial prints, labels, logos, packaging, and greeting cards. It may be used to describe unanimated drawings and graphics that appear on a website or computer screen. (If the drawings or graphics are animated, the **applicant** should use the term **audiovisual work** to describe the work.) The term 2-D artwork may be used to describe two-dimensional drawings or artwork that create the illusion of three-dimensions through the use of shading and perspective. The term 2-D artwork also may be used to describe two-dimensional artwork that has been applied to a useful article, such as designs reproduced on wallpaper, carpeting, floor tile, wrapping paper, clothing, textiles, lace, and other fabrics, or two-dimensional artwork that has been applied to a useful article, such as a chair, car, plate, or vase, provided that the artwork is separable from the useful article. For a discussion of the practices and procedures for registering specific types of pictorial and graphic works, see **Chapter 900**, Sections 908 through 922. For a discussion of the practices and procedures for registering separable artwork that has been incorporated into a useful article, see **Chapter 900**, Section 924.
- *Artwork.* This term may be used to describe the authorship in a pictorial or graphic work. Specifically, the term may be used to describe two-dimensional artwork, including illustrative matter, such as drawings or other pictorial representations. Likewise, this term may be used to describe a chart, table, or graph, provided that the work contains a sufficient amount of pictorial or graphic authorship.
- *Cinematography.* This term may be used to describe the authorship in a **motion picture** or other **audiovisual work**. Specifically, it may be used to describe the creative contribution to a **joint work** or a **work made for hire** of the individual or entity who composes the shots for a motion picture or other audiovisual work, operates the camera during filming or videotaping, and/or supervises any of the foregoing activities. For a discussion of the specific practices and procedures for registering motion pictures and other audiovisual works, see **Chapter 800**, Sections 807 and 808.
- *Compilation / Compilation of \_\_\_\_\_.* For a discussion of these terms and the specific practices and procedures for registering a **compilation**, see Section **618.6**.
- *Computer program.* This term may be used to describe **source code**, **object code**, or other statements or instructions that are used in a computer to bring about a certain result. For a

discussion of the specific practices and procedures for registering a **computer program**, see **Chapter 700**, Section 721.

- *Collective work.* For a discussion of this term and the procedures for registering a **collective work**, see Sections **618.7** and **618.7(A)**.
- *Contribution(s) to a collective work.* For a discussion of this term and the procedures for registering a contribution to a collective work, see Section **618.7(B)**.
- *Direction.* This term may be used to describe the authorship in a motion picture or audiovisual work. It may also be used to describe the authorship in a dramatic work that is a joint work, a work made for hire, or a **derivative work**. Specifically, the term direction may be used to describe the creative contribution of the individual or entity that supervises and directs the entire cast and crew for a motion picture, an audiovisual work, or a dramatic work, including all technical and artistic aspects of the work. For a discussion of the specific practices and procedures for registering, dramatic works, audiovisual works, and motion pictures see **Chapter 800**, Sections 804, 807, and 808.
- *Editing.* The term editing may be used to describe the authorship in a motion picture or other audiovisual work. Specifically, it may be used to describe the creative contribution to a joint work, a work made for hire, or a derivative work of the individual or entity who selects the takes and shots from a motion picture or other audiovisual work, and splices them into sequences to achieve continuity and a desired dramatic, comedic, and/or thematic effect. For a discussion of the specific practices and procedures for registering motion pictures and other audiovisual works, see **Chapter 800**, Section 807 and 808.

For information concerning editorial revisions in a literary work, see **Chapter 700**, Section 709.4. For editing involving a musical work, see **Chapter 800**, Section 802.6(1). For digital editing in photography, see **Chapter 900**, Section 909.3.

- *Entire motion picture.* This term may be used to describe the direction, production, editing, music, script, and cinematography in a motion picture. For a discussion of the specific practices and procedures for registering motion pictures, see **Chapter 800**, Section 808.
- *Jewelry design.* This term may be used to describe two-dimensional or three-dimensional designs that have been applied to rings, pendants, earrings, necklaces, and the like. For a discussion of the specific practices and procedures for registering jewelry designs, see **Chapter 900**, Section 908.
- *Lyrics.* This term may be used to describe the words in a song or other musical composition. For a discussion of the specific practices and procedures for registering lyrics, see **Chapter 800**, Section 802.9. If the lyrics are registered after being combined with music, the work must be registered as a work of joint authorship naming the joint authors and their respective contributions.
- *Map.* This term may be used to describe a cartographic representation of a geographic area, including atlases, marine charts, relief maps, and globes. For a discussion of the specific practices and procedures for registering maps, see **Chapter 900**, Section 918.
- *Music.* This term may be used to describe the melody, rhythm, and/or harmony of a musical composition. For a discussion of the specific practices and procedures for registering music,

see [Chapter 800](#), Section 802. If the music is registered after being combined with lyrics, the work must be registered as a work of joint authorship naming the joint authors and their respective contributions.

- *Musical arrangement.* This term may be used to describe new or revised harmony that has been added to a preexisting melody or song. In such cases, the work must be registered as a derivative work.
- *Musical composition.* This term may be used to describe the melody, rhythm, and/or harmony of a musical composition.
- *Photograph(s).* This term may be used to describe photographic images, photographic illustrations, photographic prints, and photographic slides. It also may be used to describe holograms. For a discussion of the specific practices and procedures for registering photographs, see [Chapter 900](#), Section 909.
- *Production.* This term may be used to describe the authorship in a motion picture or other **audiovisual work**. A motion picture generally embodies the contributions of many persons whose efforts are brought together to make a cinematographic work of authorship. The term production may be used to describe the contribution of an individual or entity that plays a direct, creative role in planning, organizing, and controlling the various stages of the creation of a motion picture. For a discussion of the specific practices and procedures for registering motion pictures and other audiovisual works, see [Chapter 800](#), Sections 807 and 808.
- *Reproduction of a work of art.* This term may be used to describe a copyrightable reproduction of a preexisting pictorial, graphic, or sculptural work of art that has been produced through lithography, photoengraving, etching, molding, sculpting, or other creative processes. For a discussion of the specific practices and procedures for registering a reproduction of a work of art, see [Chapter 900](#), Section 916.
- *Script / screenplay.* These terms may be used to describe the authorship in a work of the performing arts. Specifically, they may be used to describe a written text that is used in the production or performance of a work that is presented on stage, screen, television, radio, the internet, or any other performance medium. As a general rule, these terms should not be used to describe a brief synopsis of a play, script, or screenplay or a treatment for a motion picture (*i.e.*, a written description of a motion picture that is typically created before the creation of the shooting script). Instead, the term “synopsis” or “treatment” should be used to describe these types of works.
- *Sculpture, 3-dimensional sculpture.* These terms may be used to describe the authorship in a work of fine art. Likewise, they may be used to describe the authorship in toys, dolls, scale models, and other three-dimensional sculptural works. They also may be used to describe three-dimensional artwork that has been incorporated into a useful article, provided that the sculpture can be separated from the useful article. For a discussion of the specific practices and procedures for registering a separable sculpture that has been incorporated into a useful article, see [Chapter 900](#), Section 924.
- *Sound recording.* This term may be used to describe a series of sounds that have been recorded in a particular medium, such as a recording of musical sounds that have been captured in a compact disc or mp3 file. Specifically, the term sound recording may be used to describe the creative contribution of an individual who performed the sounds that are fixed in a particu-

lar recording. If more than one performance is fixed in the sound recording, the claim must be for joint authorship or a work made for hire. Likewise, the term sound recording may be used to describe the creative contribution of the producer or sound engineer who recorded the sounds. A sound recording is separate and distinct from any work that may be embodied in the recording. For example, a song that is captured in a sound recording is a separate work from the recording of that song and a book that is captured in an audiobook is a separate work from the recording of that book. For a discussion of the specific practices and procedures for registering a sound recording, see [Chapter 800](#), Section 803.

- *Technical drawing.* This term may be used to describe diagrams illustrating scientific or technical information in linear form, such as architectural blueprints or mechanical drawings. For a discussion of the specific practices and procedures for registering technical drawings, see [Chapter 900](#), Section 922.
- *Text.* This term may be used to describe books, periodicals, manuscripts, stories, poetry, or other nondramatic literary works. It may be used to describe textual material that accompanies a pictorial, graphic, or sculptural work, such as comic strips, greeting cards, maps, commercial prints or labels, or the rules for a game. It also may be used to describe a play, a script, a screenplay, or a treatment for a motion picture, an audiovisual work, or other [works of the performing arts](#).

#### 618.4(D) Examples for Completing the Author Created Field and the Nature of Authorship Space

This Section provides representative examples for completing the Author Created field in the online application, as well as the Nature of Authorship space in the paper application.

- Online application for a novella.  
*Author Created:* text.
- Online application for a travel book containing photographs and written descriptions of tourist attractions.  
*Author Created:* text, photograph(s).
- Online application for a slide presentation containing text and photographs.  
*Author Created:* text, photograph(s).  
*Author Created/Other:* Audiovisual material.
- Online application for a graphic novel.  
*Author Created:* 2-D artwork.  
*Author Created/Other:* Text.
- Online application for etched and raised design on the surface of a pocket knife.  
*Author Created/Other:* Etched and sculptural authorship applied to pocket knife.
- Online application for a blueprint that depicts the specifications for a new product.  
*Author Created:* Technical drawing.
- Online application for the design of a house.  
*Author Created:* Architectural work.



- Online application for a sound recording released on a CD containing liner notes, drawings, and photographs.  
*Author Created:* sound recording.  
*Author Created/Other:* text of liner notes, artwork, photographs (and possibly compilation of sound recordings).
- Online application for a musical.  
*Author Created:* music, lyrics.  
*Author Created/Other:* script.
- Online application for a multimedia kit containing text, illustrations, multiple sound recordings, and a video presentation.  
*Author Created:* sound recording.  
*Author Created/Other:* text, artwork, audiovisual material.
- Paper application for a treatment for a documentary.  
*Nature of Authorship:* treatment.
- Paper application for an educational workbook containing lessons, illustrations, and photographs.  
*Nature of Authorship:* text, artwork, and photographs.
- Paper application for a stuffed animal.  
*Nature of Authorship:* 3-dimensional sculpture.

## 618.5 Derivative Works

A **derivative work** “is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted.” 17 U.S.C. § 101.

To register a **claim** to copyright in a derivative work the **applicant** should identify the new material that the author contributed to the work, as well as “any preexisting work or works that it is based on or incorporates.” 17 U.S.C. § 409(9). By definition, a derivative work contains two types of authorship:

- The authorship in the preexisting work(s) that have been recast, transformed, or adapted within the derivative work; and
- The new authorship involved in recasting, transforming, or adapting the preexisting work(s).

When completing an online application, the applicant should identify the new authorship that the applicant intends to register on the Authors screen. Specifically, the applicant should check one or more of the boxes that appear under the heading Author Created that accurately describe the new **copyrightable** material that will be submitted for registration. If none of these terms fully describe the new material that the applicant intends to register, the applicant should provide a more specific description in the field marked Other. For guidance on completing this portion of the application, see Section 618.4(A).

When completing a paper application, the applicant should provide this information in space 2 under the heading Nature of Authorship. For guidance on completing this portion of the application, see Section 618.4(B).

Derivative works often contain previously **published** material, previously registered material, **public domain** material, or material owned by a third party, because by definition, they are based upon one or more preexisting works. 17 U.S.C. § 101 (definition of “derivative work”). If a derivative work contains an appreciable amount of **unclaimable material**, the applicant should limit the claim to the new copyrightable material that the author contributed to the work using the procedure described in Section 621.8.

For representative examples that demonstrate how to complete the Author Created field and the Nature of Authorship space in an application to register a derivative work, see Section 621.8(E).

## 618.6 Compilations

A **compilation** “is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.” 17 U.S.C. § 101.

A compilation may contain several distinct forms of authorship. There may be *selection* authorship involved in choosing the material or data that will be included in the compilation. There may be *coordination* authorship involved in classifying, categorizing, ordering, or grouping the material or data. In addition, there may be *arrangement* authorship involved in determining the placement or arrangement of the material or data within the compilation as a whole. A registration for a compilation may cover each type of authorship if that authorship is sufficiently creative, but it does not cover any preexisting material or data that appears within the compilation unless that material (i) is **copyrightable**, (ii) is owned by the copyright claimant, and (iii) is specifically claimed in the application. Likewise, it does not cover any preexisting material or data that has been previously published or previously registered, or any material that is in the public domain. 17 U.S.C. § 103(b).

To register a **claim** to copyright in a compilation the **applicant** should identify the new material that the author contributed to the work and should specify the preexisting material or data that was selected, coordinated, and/or arranged (e.g., “selection and arrangement of data” or “compilation of sound recordings”). 17 U.S.C. § 409(9).

When completing an online application, the applicant should provide this information on the Authors screen in the field marked Other. Specifically, the applicant should provide a brief statement that (i) identifies the preexisting material or data that appears in the compilation and (ii) specifies whether the author selected, coordinated, and/or arranged that material or data.

Currently, the total amount of text that may be provided in the Author Created / Other field is limited to 100 characters. If more space is required, the applicant should provide the additional information in the Note to Copyright Office field.

When completing a paper application, the applicant should provide a brief statement in space 2 under the heading Nature of Authorship that identifies the authorship that the applicant intends to register.

As a general rule, if the applicant states “compilation of \_\_\_\_\_” and specifies the preexisting material or data that appears in the work, the **registration specialist** may register the claim, provided that the selection, coordination, and/or arrangement authorship that the applicant intends to register is clearly evident from the **deposit copy(ies)**.

*Examples:*

- Online application for a literary work containing a selection of thirty-five poems by William Butler Yeats written between 1896 and 1916 and coordinated based on theme, symbolism, and meter.

*Author Created/Other:* Compilation of poems by W.B. Yeats.

- Online application for a sound recording containing a selection of fifty big band recordings produced in Chicago and coordinated based on performing group, featured artist, instruments, and recording medium.

*Author Created/Other:* Compilation of big band sound recordings.

- Online application for a literary work containing a selection of 10,000 statistics from the 1995-2000 major league baseball seasons, coordination of statistics by team, player, and position, and arrangement of statistics in charts, tables, and graphs.

*Author Created/Other:* Compilation of major league baseball statistics.

If the selection, coordination, and/or arrangement authorship is not clear from the deposit copy(ies), the registration specialist may communicate with the applicant, which will delay the examination of the claim. In such cases, the specialist may ask the applicant to provide a more specific authorship statement, such as:

- Selection of [specify the preexisting material or data that has been selected and specify the criteria used to select the material or data].
- Coordination of [specify the preexisting material or data that has been coordinated and specify the criteria used to classify, categorize, organize, or group the material data].
- Arrangement of [specify the preexisting material or data that has been arranged and specify the manner in which the material or data has been arranged].

As discussed above, a claim to copyright in a compilation may cover the preexisting material or data that appears in that work, provided it (i) is **copyrightable**, (ii) is owned by the copyright claimant, (iii) is specifically claimed in the application, and (iv) has not been previously published or previously registered. In no case may the claimant register material that is in the public domain. **17 U.S.C. §103(b)**.

If the **claimant** owns the copyright in the preexisting material or data and if the applicant intends to register that material with an online application, the applicant should check one or more of the boxes that appear under the heading Author Created that accurately describe the preexisting material or data that will be submitted for registration. If none of these terms describe the material that the applicant intends to register, the applicant may provide a more specific description in the field marked Other or in the Note to Copyright Office field if additional space

is required. In the case of a paper application the applicant should provide this information on the Nature of Authorship space. For guidance on completing this portion of the application, see Sections 618.4(A) and 618.4(B).

When an applicant registers a compilation together with the material contained therein, the registration covers the material that is copyrightable, as well as the selection, coordination, and/or arrangement of the material that appears in the compilation (regardless of whether that material is copyrightable or not).

*Examples:*

- An online application is submitted for a CD containing fifteen sound effects. In the Author Created field the applicant asserts a claim in the individual recordings by checking the box marked “sound recording.” In the Author Created / Other field the applicant asserts a claim in the compilation by stating “compilation of sound effects.” The registration specialist may register the claim.
- An online application is submitted for a CD-ROM containing a dozen clip art designs. A statement on the deposit copy reads “all designs created by Clipper Ships, LLC,” and all of the designs contain copyrightable artwork. In the Author Created / Other field the applicant asserts a claim in the compilation by stating “compilation of clip art designs.” The applicant asserts a claim in the individual designs by checking the box marked “2-D artwork” in the Author Created field. The registration specialist may register the claim.
- An online application is submitted for a spreadsheet containing hundreds of fields. In the Author Created / Other field the applicant asserts a claim in the compilation by stating “compilation of data.” In the Note to Copyright Office field the applicant explains that the compilation contains a “selection of product names, product numbers, sales volume, and other information arranged in tabular form.” The applicant attempts to register the individual product names and numbers by checking the box marked “text” in the Author Created field. The registration specialist will communicate with the applicant. The claim in the selection and arrangement of data is acceptable, but the claim in text is not, because product names and individual numbers are not copyrightable.
- A paper application is submitted for an article that describes a method for preparing tax returns. Three of the terms in the article are printed in bold typeface. The applicant asserts a claim in “text and compilation of highlighted terms” in the Nature of Authorship space. The registration specialist will communicate with the applicant. The claim to copyright in the text of the article is acceptable, but the selection and arrangement of the highlighted terms is insufficient to support a claim in compilation.

Compilations often contain **unclaimable material**, such as a selection of data that has been previously registered, a coordination of data that has been previously **published**, or an arrangement of data that is owned by a third party. If a compilation contains an appreciable amount of unclaimable material, the applicant should exclude that material from the claim using the procedure described in Section 621.8.

## 618.7 Collective Works

A **collective work** “is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.” **17 U.S.C. § 101.**

To register a **claim** in a collective work and/or a contribution to a collective work, the applicant should identify the authorship that the **applicant** intends to register. By definition, a collective work contains two types of authorship:

- The compilation authorship in the collective work, which typically involves selecting, coordinating, and/or arranging a number of separate and independent works and assembling them into a collective whole; and
- The authorship in the separate and independent works included within the collective work, such as an article that appears in a periodical issue, a poem that appears in an anthology, or a sound recording that appears on an album.

An applicant may register a collective work together with the separate and independent works contained therein (i) if the copyright in the contributions and the collective work are owned by the same claimant, and (ii) if the component works have not been previously **published**, previously registered, and are not in the **public domain**.

*Example:*

- Elizabeth Barrett wrote a short story, which was published in an anthology containing twelve stories by different authors. Alfred Pennington compiled the stories that appear in this anthology. Alfred obtained the right to use each story in the anthology, but he did not acquire the copyright in any of these contributions. Alfred may register the anthology as a collective work, but he is not entitled to register the copyright in any of the stories. Elizabeth may register the copyright in her story as a contribution to a collective work, but cannot register the copyright in the anthology as a whole.

Collective works often contain **unclaimable material**, such as contributions that are not owned by the **copyright claimant** or contributions that were previously registered or previously published. If a collective work contains an appreciable amount of unclaimable material, the applicant should exclude that material from the claim using the procedure described in Section **621.8**.

### 618.7(A) Asserting a Claim to Copyright in a Collective Work

If the **applicant** intends to register the compilation authorship involved in creating the **collective work** as a whole, the applicant should describe that authorship on the Authors screen in the field marked Author Created/Other. Currently, the total amount of text that may be provided in the Author Created/Other field is limited to 100 characters. If more space is required, the applicant should provide the additional information in the Note to Copyright Office field.

When completing a paper application, the applicant should provide a brief statement in space 2 under the heading marked Nature of Authorship that describes the compilation authorship that the applicant intends to register.

As a general rule, if the applicant states “collective work” the **registration specialist** may register the **claim**. The specialist may register the claim if the applicant states “compilation,” provided that the selection, coordination, and/or arrangement authorship that the applicant intends to register is clearly evident from the **deposit copy(ies)**. The specialist also may register the claim if the applicant states “compilation of \_\_\_\_\_” and specifies the type of contributions that appear within the collective work.

*Example:*

- Online application for a journal containing dozens of articles, photographs, and illustrations.

*Author Created/Other:* Compilation of articles, photographs, and illustrations.

If the selection, coordination, and/or arrangement authorship is not clear from the deposit copy(ies), the registration specialist may communicate with the applicant. In such cases, the specialist may ask the applicant to provide a more specific authorship statement using the guidelines set forth in Section **618.6**.

For representative examples that demonstrate how to complete the Author Created field and the Nature of Authorship space in an application to register a collective work, see Section **618.7(D)**.

## **618.7(B) Asserting a Claim to Copyright in a Contribution to a Collective Work**

### **618.7(B)(1) Registering a Contribution without Registering the Collective Work as a Whole**

If the **applicant** intends to register a contribution to a **collective work**, but does not intend to register the collective work as a whole, the applicant should provide the title of the contribution in the Title of Work Being Registered field. The applicant should provide the title of the collective work in which the contribution appears in the Title of Larger Work field. For guidance on completing these fields on the Titles screen, see Sections **610.2** and **610.4(B)**. The applicant should assert a **claim** in that contribution by checking one or more of the boxes in the Author Created field that accurately describes that contribution. For guidance on completing this field, see Section **618.4(A)**.

To register a contribution to a collective work with a paper application, the applicant should identify the authorship that the applicant intends to register in space 2 under the heading Nature of Authorship.

For representative examples that demonstrate how to complete the Author Created field and the Nature of Authorship space in an application to register a contribution to a collective work, see Section **618.7(D)**.

**NOTE:** If the claimant owns the copyright in the individual contribution(s) that appear within a collective work, but does not own the copyright in the collective work as a whole, the applicant generally must submit a separate application for each contribution. In some cases, it may be possible to register multiple contributions using the group option for contributions to periodicals or the group option for published photographs. For information concerning these options, see **Chapter 1100**, Sections 1115 and 1116.

## 618.7(B)(2) Registering a Collective Work and a Contribution to a Collective Work

If the claimant owns the copyright in the **collective work** as a whole, and owns the copyright in one or more of the contributions that appear within that work, the applicant may register those contributions together with the collective work – but only if those contributions have not been previously published or previously registered. In no case may the claimant register a contribution that is in the public domain.

If the author of the **collective work** created the contributions that appear within the collective work, the **applicant** may register the contributions together with the collective work by providing the following information in the online application:

- The applicant should provide the title of the collective work as the “Title of work being registered.” For guidance on completing this portion of the Titles screen, see Section **610.2**.
- The applicant should assert a **claim** in the collective work as a whole using the procedure described in Section **618.7(A)**.
- The applicant should assert a claim in the contribution(s) by checking one or more of the boxes in the Author Created field that accurately describe the contribution(s) that the applicant intends to register. For guidance on completing this portion of the application, see Section **618.4(A)**.
- The applicant may provide the titles of the contributions that were created by the author of the collective work, although this is optional. Specifically, the applicant may provide this information in the Contents Title field. For guidance on completing this portion of the Titles screen, see Section **610.4**. Alternatively, the applicant may identify the contributions that were created by the author of the collective work by providing the titles of those works in the New Material Included field and by disclaiming “all other contributions” in the Material Excluded field. Alternatively, the applicant may identify the contributions that are not owned by the claimant (if any) by providing the titles of those works in the Material Excluded field and by stating “all other contributions” in the New Material Included field. For guidance on completing this portion of the application, see Section **621.8(D)**.

If the claimant owns the copyright in the collective work and the individual contributions – but is not the author of those contributions – the applicant may register the contributions together with the collective work by providing the following information in the online application:

- The applicant should provide the title of the collective work as the “Title of work being registered.” For guidance on completing the Titles screen, see Section **610.2**.
- The applicant should assert a claim in the collective work as a whole using the procedure described in Section **618.7(A)**.
- On the Authors screen the applicant may provide the name of the individual or entity that created the contribution in the field marked Individual Author or Organization, although this is optional. For guidance on completing this portion of the application, see Section **613.9**.
- On the Claimants screen the applicant should provide an appropriate **transfer statement** in the Transfer field that explains how the claimant obtained the copyright in the contribution, such as “by written agreement with each contributor,” “by written agreement(s) with



individual contributors not named on the application/certificate,” or the like. For additional guidance on providing a transfer statement, see Section [620.9](#).

- The applicant may provide the titles of the contributions that have been transferred to the copyright claimant, although this is optional. Specifically, the applicant may provide this information on the Authors screen in the field marked Author Created/Other. Currently, the total amount of text that may be provided in the Author Created/Other field is limited to 100 characters. If more space is required, the applicant may provide additional information in the Note to Copyright Office field. Alternatively, the applicant may identify the contributions that are not owned by the copyright claimant by disclaiming those titles in the Material Excluded field, and by stating “all other contributions” in the New Material Included field. For guidance on completing this portion of the application, see Section [621.8\(D\)](#).

If the work contains contributions created by other authors, the applicant should repeat the process set forth in the bullets immediately above for each contribution that the applicant intends to register.

To register a collective work and/or a contribution to a collective work with a paper application, the applicant should identify the authorship that the applicant intends to register in space 2 under the heading Nature of Authorship.

For representative examples that demonstrate how to complete the Author Created field and the Nature of Authorship space in an application to register a contribution to a collective work, see Section [618.7\(D\)](#).

### **618.7(C) Asserting a Claim to Copyright in a Serial Publication**

This Section discusses the procedure for asserting a [claim](#) to copyright in a single issue of a [serial](#) publication. A serial publication is a work that is [published](#) or intended to be published at regular or stated intervals on an indefinite basis where each issue is numbered or dated consecutively, such as a newspaper, magazine, or other periodical. [37 C.F.R. § 202.3\(b\)\(1\)\(v\)](#).

If the [applicant](#) intends to register a single issue of a serial publication, then as discussed in Section [609.2\(A\)](#), the applicant should select Single Serial Issue from the drop down menu on the Type of Work screen. (When completing a paper application, the applicant should use Form SE, as discussed in Section [609.2\(B\)](#).)

If the applicant intends to register the issue as a whole, the applicant should check the “compilation” box that appears on the Authors screen in the Author Created field. (When completing a paper application, the applicant should state “compilation” on space 2.)

This term may be used to register the authorship involved in selecting, coordinating, and/or arranging the content that appears within the issue. The registration will cover each type of authorship if it is sufficiently creative. But the registration will not cover the individual contributions that appear within the issue unless those contributions (i) are [copyrightable](#), and (ii) are owned by the copyright claimant. Likewise, the registration will not cover any contributions that have been previously published or previously registered, or any contributions that are in the public domain. [17 U.S.C. § 103\(b\)](#).



If the claimant owns the copyright in the issue as a whole, and owns the copyright in one or more of the contribution(s) that were first published in that issue, the claimant may register those contributions together with the issue as a whole. To do so, the applicant must check the boxes marked “Compilation” and “Contribution(s) to a collective work (e.g., an article).” (When completing a paper application, the applicant should state “compilation and contributions to a collective work” on space 2.)

For representative examples that demonstrate how to complete the Author Created field and the Nature of Authorship space in an application to register a single serial issue together with the contributions that appear within that issue, see Section 618.7(D).

If the applicant checks the box marked “Contribution(s) to a collective work” in the online application, but fails to check the box marked “Compilation,” the registration specialist will communicate with the applicant to determine if the claimant owns the copyright in both the contributions and the issue as a whole. (Similarly, the specialist will communicate if the applicant asserts a claim in “text,” “artwork,” “photographs,” or “contributions to a collective work” on Form SE, but fails to assert a claim in the “compilation.”) If the claimant owns the copyright in the individual contribution(s), but does not own the copyright in the issue as a whole, the specialist generally will instruct the applicant to submit a separate application for each contribution.

**NOTE:** In some cases, it may be possible to register multiple contributions using the group option for contributions to periodicals or published photographs. For information concerning these options, and the **group registration** options for **serials**, daily newspapers, daily newsletters, see **Chapter 1100**, Sections 1109, 1110, 1111, 1115, and 1116.

#### 618.7(D) Examples for Asserting a Claim to Copyright in a Collective Work and / or a Contribution to a Collective Work

This Section provides representative examples for completing the Author Created field in an online application for a **collective work** and/or a contribution to a collective work (including a single issue of a serial publication).

*Examples:*

- *Claim in collective work.* An application is submitted for an anthology titled *Fierce*. Pride Publishers intends to register the authorship involved in selecting, coordinating, and arranging the text, photographs, artwork, and other contributions that appear in this anthology, but does not intend to register the contributions themselves.

*Type of work:* Literary work.

*Title of work being registered:* *Fierce*.

*Name of Author:* Pride Publishers.

*Work made for hire:* Yes.

*Author Created/Other:* Compilation of text, photographs, and artwork.

- *Claim in collective work and contributions to the collective work.* HealthNet, Inc., created the newest issue of a journal titled *Fitness*, which contains hundreds of articles. HealthNet’s employees created all of the content that appears in this journal. The company intends to register the compilation authorship

involved in creating the journal as a whole, as well as the individual articles contained therein.

*Type of work:* Single serial issue.

*Title of work being registered:* *Fitness*, Vol. 7, No. 77, Spring 2014.

*Name of Author:* HealthNet, Inc.

*Work made for hire:* Yes.

*Author Created:* Compilation, Contribution(s) to a collective work (e.g., an article)."

- *Claim in collective work and contributions to the collective work.* American Wildlife published a coffee table book titled *Fauna* that contains text, photographs, and maps. American Wildlife LLC selected and arranged all of the content that appears in the book. Most of the content was created by the company's employees. The rest of the content was created by freelancers who assigned the copyright in their respective contributions to the company. American Wildlife submits an application to register the coffee table book as a whole, together with the individual contributions created by its employees and the freelancers.

*Content created by American Wildlife employees:*

*Type of work:* Literary work.

*Title of work being registered:* *Fauna*.

*Contents Title (Optional):* [Titles of contributions created by American Wildlife's employees].

*Name of Author:* American Wildlife LLC

*Work made for hire:* Yes.

*Author Created:* Text, photograph(s)

*Author Created/Other:* Maps, compilation of text, photographs, and maps.

*Name of Claimant:* American Wildlife LLC.

*Content created by freelance writers:*

*Name of Author (Optional):* [Name of freelance writer].

*Work made for hire:* No.

*Author Created/Other (Optional):* [Title of the contribution created by the freelance writer; repeat for contributions created by other freelance writers].

*Name of Claimant:* American Wildlife LLC.

*Transfer statement:* "By written agreement with all contributors," "by written agreement(s) with individual contributors not named on the application/certificate," or the like.

- *Claim in a single issue of a serial publication (including both the collective work and the contributions to the collective work).* McCallister & Co. publishes *Driven* magazine four times a year. The publisher intends to register the authorship involved in selecting, coordinating, and arranging the content that appears in the latest issue. It also intends to register the individual articles, photographs, and other content created by its employees. The publisher does not intend to register the content which was created by third parties, such as the advertisements or content by freelance writers or photographers.

*Type of work:* Single serial issue.

*Title of work being registered:* *Driven*, Vol. 12, Issue 2, Winter 2012.

*Name of Author:* McCallister & Co.

*Work made for hire:* Yes.

*Author Created:* Compilation, Contribution to a collective work (e.g., an article).

- *Claim in a single issue of a serial publication (including both the collective work and the contributions to the collective work).* Horologiste S.A. publishes a monthly magazine titled *Chronometrics*. The publisher's employees create most of the articles, photographs, and other content that appears within each issue, as well as the coordination and arrangement of the issue as a whole. The March 2016 issue contains articles by a several freelance writers who assigned the copyright in their respective contributions to the publisher. Horologiste intends to register the compilation authorship involved in creating the March 2016 issue, as well as the individual contributions created by its employees and the freelance writers.

*Content created by Horologiste employees:*

*Type of work:* Single serial issue.

*Title of work being registered:* *Chronometrics*.

*Issue date on copies:* March 2016

*Name of Author:* Horologiste S.A.

*Work made for hire:* Yes.

*Author Created:* Compilation, Contribution(s) to a Collective Work (e.g. an article)

*Author Created/Other (Optional):* Text, photograph(s)

*Name of Claimant:* Horologiste S.A.

*Content created by freelance writers:*

*Author Created:* Contribution(s) to a Collective Work (e.g. an article)

*Name of Claimant:* Horologiste S.A.

*Transfer statement:* By written agreement(s) with individual contributors not named on the application/certificate.

- *Claim in a contribution to a collective work.* Al Thomas intends to register his article "A Sneak Peek at the Breitling Navitimer," which was published on page 16 of the March 2016 issue of *Chronometrics* magazine. He does not intend to register the magazine as a whole.

*Type of work:* Literary work.

*Title of work being registered:* "A Sneak Peek at the Breitling Navitimer"

*Title of larger work:* *Chronometrics* (March 2016, p. 16).

*Name of Author:* Al Thomas.

*Work made for hire:* No.

*Author Created:* Text.

## 618.8 Examination Guidelines: Author Created / Nature of Authorship

This Section discusses the U.S. Copyright Office’s practices and procedures for examining the Author Created field in an online application and the Nature of Authorship space in a paper application.

### 618.8(A) Authorship Unclear

The authorship that the **applicant** intends to register should be clearly identified in the application and the **claim** to copyright in that authorship should be clearly stated.

As a general rule, the U.S. Copyright Office will accept any of the terms set forth in Section 618.4(C), any of the terms set forth in Sections 618.6 or 618.7 (in the case of an application to register a **compilation**, a **collective work**, or a contribution to a collective work), or any combination of those terms, unless the information provided in the Author Created field or the Nature of Authorship space fails to describe the authorship that the applicant intends to register, fails to describe **copyrightable** authorship, or is contradicted by information provided elsewhere in the registration materials.

The Office recognizes that many applicants are not familiar with the correct terms for completing an application or may make a mistake in completing the Author Created field or the Nature of Authorship space. As a general rule, “[a]ny substantive editing of authorship and/or new matter statements and/or material excluded from claim statements, will be done only after contacting the applicant for permission to amend the information” set forth in that portion of the application. **Online Registration of Claims to Copyright, 72 Fed. Reg. 36,883, 36,887 (July 6, 2007)**. In some cases, the **registration specialist** may add an **annotation** to the record to clarify the copyrightable material that the author contributed to the work. If the information provided in the Author Created field or the Nature of Authorship space is unclear and the issue cannot be addressed with an annotation, the registration specialist will communicate with the applicant.

Examples of unclear terms that should be avoided in the application are discussed in Sections 618.8(A)(1) through 618.8(A)(11) below.

#### 618.8(A)(1) Design

As a general rule, the terms “2-D artwork” or “sculpture” should be used to describe the **copyrightable** authorship in a pictorial, graphic, or sculptural work, while the term “**computer program**” should be used to describe the copyrightable authorship in a computer program.

The term “design” should not be used in the Author Created field or the Nature of Authorship space, because it suggests that the **applicant** may be asserting a **claim** in an idea, procedure, process, system, method of operation, concept, principle, or discovery.

*Example:*

- An application is submitted for a book titled *Redesign Your Backyard*. The **deposit copies** contain text and two-dimensional artwork depicting landscape designs. The application states that the author created “text” and “2-D artwork.” The **registration specialist** will register the claim.

If an applicant uses the term “design” in the Author Created field or the Nature of Authorship space for a pictorial or graphic work, the registration specialist may register the claim, if that term is clearly being used to describe copyrightable artwork.

*Example:*

- An application is submitted for a book titled *How to Make Stained Glass Windows*. The deposit copies contain text and two-dimensional artwork depicting stained glass windows. The application states that the author created “text and designs.” The registration specialist may register the claim, because the term “designs” apparently refers to the two-dimensional artwork embodied in the stained glass windows (although the term “2-D artwork” would be a more appropriate authorship statement).

If the applicant appears to be asserting a claim in the ideas, concepts, or methods embodied in the work or the plan, scheme, layout, or format of the work, the registration specialist may communicate with the applicant. Alternatively, the specialist may add an **annotation** to the registration record, provided that the work contains a sufficient amount of copyrightable authorship to warrant registration.

*Examples:*

- An application is submitted for a **computer program**. In the Author Created/Other field the applicant states that the author created “source code and design for high speed retrieval tasks.” The registration specialist will ask for permission to remove the phrase “design for high speed retrieval tasks,” because it suggests that the applicant is attempting to register the ideas, concepts, or methods embodied in the program.
- An application is submitted for a **motion picture**. The applicant asserts a claim in “script, cinematography, set design.” The registration specialist may register the claim if the backdrops for the set contain copyrightable artwork. If the set merely consists of furniture and other physical props, the specialist will ask for permission to remove the term “set design,” because it suggests that the applicant is asserting a claim in the arrangement or layout of props.
- An application is submitted for a **sound recording**. The cover of the CD contains a photograph and a list of credits, but no artwork. The applicant asserts a claim in “sound recording, photography, and CD design.” The registration specialist will ask for permission to remove the term “CD design,” because it suggests that the applicant is asserting a claim in the layout or format of the CD cover.
- An application is submitted for a book containing text, but no illustrations. The applicant asserts a claim in “text, design.” The term “design” suggests that the applicant is attempting to register the overall format, layout, or appearance of the pages in the book. The registration specialist may ask the applicant for permission to remove the term “design” or may register the claim with an annotation, such as: “Regarding authorship information: layout and format not copyrightable. *Compendium* 313.3(E).”

If the applicant appears to be using the term “design” to assert a claim in a useful article, a typeface, mere variations of typographic ornamentation, or other *de minimis* or uncopyrightable

material, the specialist will communicate with the applicant. If the work is not separable from the useful article, or if it does not contain a sufficient amount of copyrightable authorship, the specialist will refuse registration.

*Examples:*

- An application is submitted for a bowl with a flower painted on the surface. The applicant asserts a claim in “pottery design.” The term “design” suggests that the applicant is asserting a claim in the shape of the bowl, rather than the image of the flower. The registration specialist will ask the applicant for permission to remove this term from the application and replace it with an appropriate authorship statement, such as “2-D artwork.”
- An application is submitted for a book containing text and photographs explaining how to knit hats. The applicant asserts a claim in “knitting designs.” The term “design” suggests that the applicant is asserting a claim in the hats themselves, rather than the text and photographs. The registration specialist will ask the applicant for permission to remove this term from the application and replace it with an appropriate authorship statement, such as “text, photographs.”
- An application is submitted for a motion picture. The applicant asserts a claim in “script, direction, cinematography, and title design.” The registration specialist will ask for permission to remove the term “title design” because it suggests that the applicant is asserting a claim in typeface or typographic ornamentation.

## 618.8(A)(2) Game

As a general rule, “text” should be used to describe the **copyrightable** authorship in a **literary work**, and “2-D artwork” or “sculpture” should be used to describe the copyrightable authorship in a pictorial, graphic, or sculptural work. To describe the copyrightable authorship in a videogame, the **applicant** should use the term “audiovisual material” or “**computer program**” depending upon what is being registered. For information concerning the practices and procedures for registering videogames, see **Chapter 800**, Section 807.7(A).

The term “game” should not be used in the Author Created field or the Nature of Authorship space, because it is not a form of copyrightable authorship. It also suggests that the applicant may be asserting a **claim** in the idea for a game or the method or procedures for playing a game.

*Example:*

- An application is submitted for a card game titled *The Cow Jumped Over the Moon*. Victor Fuentes is named as the author of “text” and “artwork.” The deck of cards contains copyrightable artwork, as well as the instruction for playing the game. The **registration specialist** will register the claim.

If the applicant uses the term “game” to describe an **audiovisual work**, the registration specialist will ask the applicant to provide a more specific authorship statement, such as “audiovisual material.”

If the applicant uses the term “game” to describe a literary work and/or a pictorial or graphic work, the registration specialist may register the claim if the work contains a sufficient amount of copyrightable authorship to warrant registration. In this situation, the specialist may add an **annotation** indicating that the registration does not cover the uncopyrightable elements of the game.

*Examples:*

- An application is submitted for a work titled *Geometry Puzzle*, naming MB & Company as the author of a “board game.” The **deposit copy** contains copyrightable artwork. The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: idea for, and procedure or method of operation used in, game not copyrightable. 17 U.S.C. § 102(b). Registration extends to artwork deposited.”
- An application is submitted for a work titled *Word Search*, naming Jill and Michael Thomas as co-authors of a “spelling game and instructional text.” The deposit copy contains copyrightable text on flash cards. The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: registration does not extend to uncopyrightable elements or aspects of game (idea for, and procedure or method of operation used in, game). 17 U.S.C. § 102(b).”
- An application is submitted for a videogame naming KuraSonix as the author of a “game.” The registration specialist will ask the applicant to provide a more specific description of the author’s contribution to this work, such as “audiovisual material” (if the applicant intends to register the audiovisual elements of the work) or “computer program” (if the applicant intends to register the **source code** that generates the videogame).
- An application is submitted for a work naming MindStretch as the author of “game.” The deposit copy consists of a single Sudoku puzzle. The registration specialist will refuse to register the claim because a single Sudoku puzzle contains no copyrightable expression.

### 618.8(A)(3) Packaging

As a general rule, “text,” “2-D artwork,” and/or “photograph(s)” should be used to describe the **copyrightable** authorship that appears on product packaging.

The term “packaging” should not be used in the Author Created field or the Nature of Authorship space, because the packaging for a work — in and of itself — does not constitute copyrightable subject matter.

*Example:*

- An application is submitted for a CD and asserts a claim in “music, lyrics, text of liner notes, and photographs.” The CD insert contains publicity photographs and a short biography for each member of the band. The registration specialist will register the claim.

If the applicant uses the term “packaging” alone, the registration specialist will communicate with the applicant to request a more appropriate authorship statement. If the copyrightable authorship on the packaging is stated in terms such as “text and artwork on packaging,” the specialist will register the claim. However, if the work does not contain a sufficient amount of copyrightable authorship to warrant registration, the specialist will refuse to register the claim.

*Examples:*

- An application is submitted to register the “packaging” for a toaster. The packaging contains a photograph and a brief description of the product. The registration specialist will ask for permission to remove the term “packaging” and replace it with a more appropriate authorship statement, such as “text, photograph.”
- An application is submitted for a CD. The claim is stated as “sound recording and packaging.” The CD insert contains the title of each track and a list of credits, but no artwork or text. The registration specialist will ask for permission to remove the term “packaging,” because the CD insert does not contain artwork or text to support a copyright claim.
- An application is submitted to register the “packaging” for a candy bar. The packaging contains the name of the product and a list of the product’s ingredients, but no artwork or text. The registration specialist will refuse to register the claim.

#### **618.8(A)(4) Author, Artist, Writer, Songwriter, Editor, and Other Professional Designations**

As a general rule, the **applicant** should use one or more of the terms set forth in Section **618.4(C)** to describe the **copyrightable** authorship that the applicant intends to register.

A term that merely describes the author or the author’s profession should not be used in the Author Created field or the Nature of Authorship space.

*Example:*

- Shane Banks is a professional songwriter. He submits an application for a ballad. In the Author Created field, he asserts a **claim** in “music, lyrics.” The **registration specialist** will register the claim.

If an applicant uses the term author, writer, songwriter, or the like in an application to register a **literary work** or a work of the performing arts, the registration specialist may register the claim if it is clear that the applicant is asserting a claim in text and/or lyrics. If the **deposit copy(ies)** contain another form of authorship, and if it is clear that the author(s) listed in the application created all of the copyrightable content that appears in the work, the specialist may add an **annotation** to clarify the content of the **deposit**.

*Examples:*

- An online application for a musical work is submitted naming Jody Silverman as the sole author of the work. The Author Created/Other field states “writer.” A statement on the deposit copy reads “music and lyrics by Jody Silverman.” Since the copy contains lyrics and an additional authorship element, the registration specialist may register the claim with an annotation to clarify



the content of the deposit, such as: “Regarding authorship information: copy states music and lyrics by Jody Silverman.”

- A paper application is submitted on **Form TX** for an article naming Emily Gregor as the sole author of the work. The Nature of Authorship space reads “writer.” The copy only contains text. The specialist may conclude that the applicant is asserting a claim in the text and register the claim.

### 618.8(A)(5) Story, Story Idea, Story Concept, Story Line

As a general rule, the applicant should use one or more of the terms set forth in Section **618.4(C)** to describe the copyrightable authorship that the applicant intends to register.

The applicant should not use the terms “story,” “story idea,” “story concept,” “story line,” or the like in the Author Created field or the Nature of Authorship space, because these terms do not clearly describe copyrightable authorship.

*Example:*

- An application is submitted for a children’s play that is based on the story of Hansel and Gretel. Harry Wheeler is named as the author of the “script.” The **registration specialist** will register the **claim**.

If an applicant uses the term “story” in the application, the registration specialist may register the claim if he or she determines that the applicant is referring to the text that appears in the work (rather than the idea for the story).

*Example:*

- An application is submitted for a screenplay naming Johanna Eagen as the author of “story and dialog.” The registration specialist may register the claim, because the applicant is clearly asserting a claim in the text of this work (although “script” or “screenplay” would be a more appropriate authorship statement).

If an applicant asserts a claim in a “story idea,” “story concept,” “storyline,” or the like, and if it is clear from the information provided in the **deposit copy(ies)** or elsewhere in the registration materials that the author contributed copyrightable authorship to the work, the registration specialist may register the claim. In addition, the specialist may add an **annotation** to the record stating that ideas are not copyrightable.

*Examples:*

- An application is submitted for a play naming James Beck as the author of “story idea and play” and Bob Bobelli as the author of “play.” The statement in the application indicates that James and Bob contributed copyrightable authorship to this work. The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: ideas not copyrightable. 17 U.S.C. § 102(b).”
- An application is submitted to register a proposal for a new television series. The applicant names Sonny Capaldi as the author of “text and story concept.” Sonny appears to be the author of all the authorship that appears in this work,

because he is the only author named on the deposit copy. If the proposal contains a sufficient amount of copyrightable authorship to justify a claim in “text,” the claim may be registered with an annotation, such as: “Regarding authorship information: concept not copyrightable. 17 U.S.C. § 102(b). Registration extends to text deposited.”

If the applicant uses the term “story,” “story idea,” “story concept,” “storyline,” or the like in the Author Created field or the Nature of Authorship space, and if this is the author’s sole contribution to the work, the specialist will communicate with the applicant if the author’s contribution appears to be uncopyrightable or *de minimis*.

*Examples:*

- An application is submitted for a screenplay naming Evelyn Lauder as the author of “text.” A statement on the deposit copy reads “screenplay by Evelyn Lauder, story by Charles Bogart.” The statement in the application indicates that Evelyn contributed copyrightable authorship to this work. The statement on the deposit copy suggests that Charles merely contributed the idea or concept for the story. Charles’s contribution is uncopyrightable and therefore should not be claimed in the application. The registration specialist will register the claim without communicating with the applicant.
- An application is submitted for a play naming Samuel Loyer as the author of “story” and Pamela Judge as the author of “play.” A statement on the deposit copy reads “play by Pam Judge, based on concept by Sam Loyer.” The registration specialist will communicate with the applicant, because the statements given on the application and the deposit copy suggest that Samuel contributed only ideas or concepts to this work.

## 618.8(A)(6) Conceived, Conception

As a general rule, the **applicant** should use one or more of the terms set forth in Section 618.4(C) to describe the **copyrightable** authorship that the applicant intends to register.

The applicant should not use the term “conceived” or “conception” in the Author Created field or the Nature of Authorship space, because they suggest that the applicant may be asserting a **claim** in an idea, procedure, process, system, method of operation, concept, principle, or discovery.

*Example:*

- An application is submitted for a toy train that was conceived, designed, and produced by HTM Models. The applicant asserts a claim in “sculpture.” The **registration specialist** will register the claim.

If an applicant uses the term “conceived,” “conception,” or the like to describe copyrightable authorship, the registration specialist may register the claim if it is clear that the term is being used as a synonym for “**created**” or “creation.” By contrast, the specialist may communicate with the applicant or may register the claim with an **annotation** if the applicant appears to be asserting a claim in uncopyrightable subject matter.

*Examples:*

- An application is submitted for a musical work stating that the author “conceived words and music.” The registration specialist may register the claim without communicating with the applicant, because the word “conceived” is clearly being used as a synonym for “created” (although “music” and “lyrics” would be a more appropriate authorship statement).
- An application is submitted for a website. Molly Callaghan is named as the author of “artwork” and Sally Mavory is named as the author of “conception and text.” The statements in the application clearly indicate that Molly and Sally contributed copyrightable text and artwork to this website. The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: concepts not copyrightable. 17 U.S.C. § 102(b).”
- An application is submitted for a set of blueprints. Sloan Peterson is named as the author of a “technical drawing” and Cameron Rooney is named as the author of “conception.” A statement on the **deposit copy** reads “by Sloan Peterson.” The registration specialist will communicate with the applicant to determine if Cameron contributed copyrightable authorship to the work. If he contributed only ideas, concepts, or the like, the specialist will ask for permission to remove all of Cameron’s information and the term “conception” from the registration record.

#### 618.8(A)(7) Plot

As a general rule, the **applicant** should use one or more of the terms set forth in Section 618.4(C) to describe the **copyrightable** authorship that the applicant intends to register.

The applicant should not use the term “plot” in the Author Created field or the Nature of Authorship space, because it suggests that the applicant may be asserting a **claim** in the plan, scheme, or main idea for the work (which is not copyrightable), rather than the text, dialog, or other copyrightable expression that appears in the work.

*Example:*

- An application is submitted for a political thriller with a complicated plot. Tori Taylor is named as the author of the “text.” The specialist will register the claim.

If the applicant uses the term “plot” together with another form of copyrightable authorship in the Author Created field or Nature of Authorship space, the **registration specialist** may register the claim without communicating with the applicant. In this situation, the specialist will add an **annotation** to the record stating that ideas are not copyrightable.

*Example:*

- An application is submitted for a script naming Patrick White as the author of “plot, text” and Jane Watson as the author of “text.” The **deposit copy** states “teleplay by Patrick White and Jane Watson.” The statement in the application indicates that Patrick and Jane contributed copyrightable text to this work. The specialist may register the claim with an annotation, such as: “Regarding authorship information: ideas not copyrightable. 17 U.S.C. § 102(b).”

If the applicant states that “plot” is the author’s sole contribution to the work, the specialist may register the claim if it is clear from the deposit copy(ies) that the author contributed copyrightable authorship to the work. In this situation, the specialist will add an annotation stating that ideas are not copyrightable and describing the copyrightable material that appears in the work.

*Examples:*

- An application is submitted naming Gregory Putter as the author of a “screenplay” and Jackson Place as the author of the “plot.” A statement on the deposit copy reads “screenplay by Gregory Putter and Jackson Place.” The specialist may register the claim without communicating with the applicant, because the statement on the deposit copy indicates that Gregory and Jackson contributed copyrightable authorship to this work. In addition, the specialist will add an annotation, such as: “Regarding authorship information: ideas not copyrightable. 17 U.S.C. § 102(b). Copy states ‘screenplay by Gregory Putter and Jackson Place.’”
- An application is submitted for a treatment for a **motion picture** naming Benjamin Barker as the author of “plot.” The deposit copy states “by Ben Barker.” Benjamin appears to be the author of all the authorship that appears in this work, because he is the only author named in the deposit copy. If the treatment contains a sufficient amount of copyrightable text, the claim may be registered with an annotation, such as: “Regarding authorship information: ideas not copyrightable. 17 U.S.C. § 102(b). Registration covers text deposited.”

If the applicant names two or more authors in the application, and if the applicant asserts a claim in “plot,” the specialist will ask for permission to remove that term from the application if it appears that one of the authors contributed only ideas to the work. If there appears to be no other basis for a valid copyright claim, the specialist will refuse registration.

*Example:*

- An application is submitted for a dramatic work naming Rosa Smith as the author of “drama” and Terry Jones as the author of the “plot.” A statement on the deposit copy reads “by Rosa Smith.” The registration specialist will communicate with the applicant, because the statements given on the application and the deposit copy suggest that Terry contributed only ideas to this work. If that is the case, the specialist will ask for permission to remove all of Terry’s information and the term “plot” from the registration record.

## **618.8(A)(8) Character(s)**

Although the copyright law does not protect the name or the general idea for a character, a work that describes, depicts, or embodies a particular character may be registered if it contains a sufficient amount of **copyrightable** authorship. As a general rule, the **applicant** should use one or more of the terms set forth in Section **618.4(C)** to describe a work that describes, depicts, or embodies a particular character.

The applicant should not use the term “character(s)” in the Author Created field or the Nature of Authorship space, because it suggests that the applicant is asserting a **claim** in the idea for a character, rather than the text, artwork, or other copyrightable expression that appears in the work.

*Example:*

- An application is submitted for a graphic novel depicting a character named Ultra Man. Kent Clark is named as the author of “text, 2-D artwork.” The **registration specialist** will register the claim.

If the applicant asserts a claim in a “character,” and if it is clear that the author contributed copyrightable two-dimensional artwork, the registration specialist may register the claim with an **annotation**. Otherwise, the specialist will communicate with the applicant.

*Examples:*

- An application is submitted for a comic book depicting a character named the Arachnid. Parker Peters is named as the author of “2-D artwork, new character: super hero with spider powers.” The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: characters as such not registrable. Registration based on deposited authorship describing, depicting, or embodying such character(s). Compendium 313.4(I).”
- An application is submitted for a screenplay depicting a private detective. The applicant names Waylon Bruce as the author of “script / screenplay” and Grace Dickinson as the author of “character.” The registration specialist will communicate with the applicant to determine whether Grace contributed copyrightable authorship to this work. If Grace contributed only the name or idea for the character, the specialist will ask for permission to remove all of Grace’s information and the term “character” from the registration record.

**618.8(A)(9) Research**

As a general rule, the **applicant** should use one or more of the terms set forth in Section **618.4(C)** to describe the authorship that the applicant intends to register.

The term “research” should not be used in the Author Created field or the Nature of Authorship space, because it does not specify **copyrightable** authorship. It also suggests that the applicant may be asserting a **claim** in the facts that appear in the work or the effort involved in collecting that information, rather than the expression that the author used to communicate facts or information.

*Example:*

- An application for a research paper on the Civil War is submitted naming Dr. Len Pittenger as the author of “text.” The paper is based on the author’s extensive research at the Library of Congress. The **registration specialist** will register the claim.

If the applicant asserts a claim in “research” together with another form of copyrightable authorship, such as “text,” the registration specialist may register the claim with an **annotation** indicating that “research” is not copyrightable.

If the applicant mentions only “research” in the Author Created field or the Nature of Authorship space, the specialist may register the claim if it is clear from the **deposit copy(ies)** that the author contributed copyrightable authorship to the work. In this situation, the specialist will

add an annotation stating that research is not copyrightable and identifying the copyrightable material that appears in the work.

*Example:*

- An application is submitted for a scientific paper. The applicant names Dr. Anthony Schleicher and Dr. Ron Ayotte as the authors of “research.” A statement on the deposit copy reads “by Drs. Schleicher and Ayotte.” If the work contains a sufficient amount of copyrightable text, the claim may be registered with an annotation such as: “Regarding authorship information: research itself not copyrightable. *Compendium* 707.2. Registration extends to text deposited.”

If the applicant uses the term “research” in the application, and if the applicant appears to be asserting a claim in the facts that appear in the work or the effort involved in collecting those facts, the specialist (i) may communicate with the applicant, (ii) may add an annotation stating that that “research” (*i.e.*, the underlying facts, concepts, and ideas) is not copyrightable and identifying the copyrightable material that appears in the work, or (iii) may refuse to register the claim.

*Examples:*

- An application is submitted for a genealogy containing text and a list of various names and dates. The applicant states that the author “researched old courthouse records.” It appears that the applicant may be asserting a claim in facts or the effort involved in locating those facts, rather than the text and **compilation** of information that appear in the work. The registration specialist may communicate with the applicant or may register the claim with an annotation such as: “Regarding authorship information: research itself not copyrightable. *Compendium* 707.2. Registration extends to text deposited.”
- An application is submitted for a website containing old photographs with text explaining the significance of each image. The applicant states that Betsy Liu “researched photos and wrote explanation” and that Linda Chan “researched photos and provided information.” The registration specialist will communicate with the applicant. Betsy apparently selected the photographs and wrote the text, but it is unclear whether Linda contributed any copyrightable authorship. The specialist will ask the applicant for permission to replace Betsy’s authorship statement with a more appropriate term, such as “text and compilation of photographs.” If Linda contributed only facts or research, the specialist will ask for permission to remove all of Linda’s information from the registration record.

## 618.8(A)(10) Unclear Terms for Musical Works and Sound Recordings

As a general rule, the terms “music” and/or “lyrics” should be used to describe the authorship in a musical work, and the term “sound recording,” should be used to describe the authorship in a sound recording. The **applicant** avoid using the following terms in the Author Created field or the Nature of Authorship space, because they are unclear:

- Song
- Ballad

- Cancion
- Vocals
- Musical Instruments
- Equalization
- Remastering, reverberation, reprocessing, re-engineering
- Rap, Hip Hop, Beats, Loops
- Transcription, Narration, Spoken Words
- Sound Effects

For a discussion of U.S. Copyright Office’s practices and procedures regarding these terms, see [Chapter 800](#), Sections 802.9(E), 803.9(D), and 803.9(F)(3).

#### 618.8(A)(11) Entire Work and Other Unspecific Terms

As a general rule, the [applicant](#) should use one or more of the terms set forth in Section [618.4\(C\)](#) in the Author Created field or the Nature of Authorship space.

The applicant should not use the term “entire work,” because it does not identify the specific form of authorship that the applicant intends to register. Instead, it suggests that the applicant may be asserting a [claim](#) in both the [copyrightable](#) and uncopyrightable elements of the work. It also suggests that the applicant may be asserting a claim in any previously [published](#) material, previously registered material, [public domain](#) material, or third party material that may be present in the work.

*Example:*

- An application is submitted for a textbook containing text, illustrations, photographs, as well as a CD insert containing videos and [sound recordings](#). The publisher intends to register the entire copyrightable content of this work. The applicant states that the author created “text, 2-D artwork, photographs, sound recording, and audiovisual material.” The [registration specialist](#) will register the claim.

If the applicant uses the term “entire work” or other unspecific description that is not listed in Sections [618.8\(A\)\(1\)](#) through [618.8\(A\)\(10\)](#), the registration specialist may ask the applicant to provide a more specific authorship statement. If the extent of the claim is clear from the [deposit copy\(ies\)](#) or the information provided elsewhere in the registration materials, the specialist may register the claim. In this situation, the specialist may add an [annotation](#) that describes the copyrightable content of the work or any relevant statements or information that appear in the deposit copy(ies).

*Examples: Entire work*

- An application is submitted for a sound recording naming Wrecked Records as the author of the “entire work.” The registration specialist will ask the ap-

plicant to provide a more specific authorship statement using one or more of the terms set forth in Section 618.4(C).

- An application is submitted for a website, naming Magnetic Marketing as the author of the “entire work.” The registration specialist will ask the applicant to provide a more specific authorship statement using one or more of the terms set forth in Section 618.4(C) .
- An application is submitted for a **computer program** that generates typeface designs, naming Fontography as the author of the “entire work.” The registration specialist will ask the applicant to provide a more specific authorship statement, such as “computer program.”
- A law firm submits three applications to register a **derivative work**, a **collective work**, and a **compilation** on behalf of its clients. In each case, the application asserts a claim in the “entire work.” The registration specialist will ask the applicant to provide a more specific authorship statement using one or more of the terms set forth in Section 618.4(C). In addition, the specialist may ask the applicant to complete the Limitation of Claim screen.

*Examples: Other unspecific authorship statements*

- An application is submitted for a **literary work**, naming St. John Sinclair as the author of “everything.” A statement on the deposit copy reads “text and artwork by St. John Sinclair.” The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: copy states ‘Text and artwork by St. John Sinclair.’”
- An application is submitted for a work of the performing arts, naming Albert Ferraro as the author of “entire project.” The deposit copy contains music and a statement on the **deposit** reads “by Al Ferraro.” The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: copy contains music.”
- An application is submitted naming Patricia Feinstein as the author of a “website.” The deposit copy contains text and two-dimensional artwork, and Patricia appears to be the sole author of this work. The registration specialist will ask the applicant to provide a more specific authorship statement, such as “text, 2-D artwork.”
- An application is submitted for a work titled *Neurological Examination Simplified*. Jason Mackray is named as the author of “a guide to help neurologists conduct quick and simple assessments.” A statement on the deposit copy reads “by Jason Mackray; illustrations by Susan Talbot.” The registration specialist may communicate with the applicant to determine if Susan’s name should be added to the application and to request a more specific authorship statement, such as “text” for Jason and “2-D artwork” for Susan.



**618.8(B) Percentage of Authorship**

The U.S. Copyright Office strongly discourages **applicants** from using numerical percentages to describe an author's contribution to a work, such as "music by Joe Goldie (50%); lyrics by Pepe Greenwald: (50%)." As discussed in Section 619 a copyright may be registered by or on behalf of the author of the work or a person or entity that owns all rights under the copyright that initially belonged to the author. **37 C.F.R. § 202.3(a)(3)**. Providing percentages in the Author Created field or the Nature of Authorship space may imply that the work is a **joint work** or it may raise a question as to whether the person or persons named in the application contributed **copyrightable** authorship to the work or whether the **claimant** owns all of the **exclusive rights** in the work.

If the applicant provides a percentage in the Author Created field or the Nature of Authorship space, the **registration specialist** may register the **claim** without communicating with the applicant if it is clear that the authors named in the application contributed copyrightable authorship to the work and if the work appears to be jointly owned. The percentage is considered superfluous in this situation, because it presumably refers to some allocation among the co-authors or co-owners of the copyright, rather than an allocation of the ownership in the copyright as a whole.

**618.8(C) Uncopyrightable Material Claimed in the Author Created Field or the Nature of Authorship Space**

The material described in the Author Created field or the Nature of Authorship space must be **copyrightable**. If the **applicant** asserts a **claim** in uncopyrightable material, the U.S. Copyright Office may ask for permission to remove that element from the application, or in appropriate cases, may add an annotation to clarify that the registration does not cover that element. If the claim appears to be limited to the uncopyrightable material, the Office will refuse to register the claim.

For a general discussion of copyrightable and uncopyrightable authorship, see **Chapter 300** (Copyrightable Authorship: What Can Be Registered).

**618.8(C)(1) Deposit Copy(ies) Containing Copyrightable Authorship and Uncopyrightable Material**

If the **deposit copy(ies)** contain **copyrightable** authorship as well as uncopyrightable material, the **registration specialist** may register the **claim** without communicating with the **applicant**, provided that the applicant does not claim the uncopyrightable material in the Author Created field or the Nature of Authorship space.

*Example:*

- An application is submitted for a work naming Judy Smith as the author of "2-D artwork." The deposit copy contains an illustration and a short slogan to describe the illustration. The registration specialist will register the claim because the applicant asserted a claim in the copyrightable artwork, but did not assert a claim in the uncopyrightable short phrase. The specialist may add an **annotation** to identify the uncopyrightable material, such as: "Regarding new material included: slogan, typeface, typographic ornamentation not copyrightable. **37 C.F.R. § 202.1**."

### 618.8(C)(2) Claim in Copyrightable Authorship and Uncopyrightable Material

If the **applicant** asserts a **claim** in **copyrightable** material as well as material that is uncopyrightable under the Copyright Act, **Section 202.1** of the regulations, or this *Compendium*, the **registration specialist** may communicate with the applicant. In the alternative, the specialist may register the claim with an **annotation** indicating that the registration does not cover the uncopyrightable material. The annotation is intended to put the applicant, the **claimant**, the courts, and the general public on notice concerning the extent of the claim to copyright.

*Examples:*

- *Claim in uncopyrightable material under Section 102(b).* An application is submitted for a scientific paper containing text, graphs, and mathematical equations. The applicant asserts a claim in “text, illustrations, theory.” If the work contains a sufficient amount of copyrightable authorship to support a claim in text and illustrations, the registration specialist may register the claim with an annotation, such as: “Regarding authorship information: ideas not copyrightable. 17 U.S.C. § 102(b).”
- *Claim in uncopyrightable material under 37 C.F.R. § 202.1.* An application is submitted for a banner advertisement. Brian Metcalf is named as the author of “artwork, slogan, typeface.” If the work contains a sufficient amount of pictorial or graphic authorship to support a claim in artwork, the registration specialist may register the claim with an annotation, such as: “Regarding authorship information: slogan, typeface, typographic ornamentation not copyrightable. 37 C.F.R. § 202.1.”

### 618.8(C)(3) Claim in Uncopyrightable Material: Deposit Copy(ies) Contain Copyrightable Authorship

If the deposit copy(ies) contain **copyrightable** material, and if the **applicant** asserts a **claim** in material that is uncopyrightable, the **registration specialist** may register the claim with an **annotation** indicating that the registration does not cover that material. Alternatively, the specialist may communicate with the applicant, which will delay the examination of the claim.

*Examples:*

- *Claim in uncopyrightable material under Section 102(b).* Amanda Reeves submits for registration a DVD depicting a doctor performing surgery with a voice over commentary. On the application, she describes the nature of authorship as “new process for suturing.” The only credit on the footage reads “written, filmed and narrated by Dr. Amanda Reeves.” Because the statement indicates that Amanda was the major author of the **motion picture**, the registration specialist may ask the applicant for permission to add “written, filmed and narrated” to the authorship statement and remove the reference to the suturing process.
- *Claim in uncopyrightable material under 37 C.F.R. § 202.1.* An application is submitted for an album titled *The Hottest Hits from Tabasco & Tamale*. The application states that Chuck Tabasco created the “sound recording” and Janet Tamale created the “name of performing group.” A statement on the **deposit copy** reads, “C. Tabasco: production; J. Tamale: vocals,” which indicates that Chuck and Janet

contributed **copyrightable** authorship to this work. The registration specialist may ask the applicant for permission to remove the claim in the name of the performing group. Alternatively, the specialist may register the claim with an annotation, such as: “Name of performing group not copyrightable. 37 CFR 202.1. Copy states ‘C. Tabasco: production; J. Tamale: vocals.’”

- *Claim in uncopyrightable material under the Compendium.* An application is submitted for a proposal for a home renovation. Candace Cooper is named as the author of “text” and William Wilkinson as the author of “interior design.” A statement on the deposit copy reads “text by Candy Cooper; illustrations by Willy Wilkinson.” The statement on the deposit copy indicates that William contributed copyrightable authorship to this work. The registration specialist may ask the applicant to revise the term “interior design” or may register the claim with an annotation, such as: “Regarding authorship information: interior design not copyrightable. *Compendium* 923.2. Copy states ‘Text by Candy Cooper; Illustrations by Willy Wilkinson.’”

#### 618.8(C)(4) Claim in Uncopyrightable Material: Acceptable Authorship Statement Used to Describe Uncopyrightable Material

If the **applicant** uses a term in the Author Created field or the Nature of Authorship space that normally would be used to describe **copyrightable** authorship, such as “text” or “artwork,” and if it appears that the applicant is using that term to describe material that is uncopyrightable under the Copyright Act, **Section 202.1** of the regulations, or this *Compendium*, the specialist may communicate with the applicant or may register the **claim** with an **annotation** indicating that the registration does not cover the uncopyrightable material.

*Examples:*

- *Claim in uncopyrightable material under 37 C.F.R. § 202.1.* An application is submitted for an album. The applicant asserts a claim in “music and text.” The only text that appears in the **deposit copy** is the title of each track and a list of credits. The **registration specialist** may register the claim with an annotation, such as: “Regarding authorship information: liner notes consisting of a listing of titles and/or credits not copyrightable. **37 C.F.R. § 202.1.**”
- *Claim in uncopyrightable material under 37 C.F.R. § 202.1.* An application is submitted for a website. The applicant asserts a claim in “2-D artwork and text.” The deposit copy contains copyrightable artwork, but the only text is a calendar and a football season schedule. The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: text is calendar and schedule of sporting events; not copyrightable. **37 C.F.R. § 202.1.**”
- *Claim in uncopyrightable material under the Compendium.* An application is submitted for an advertising brochure. The applicant asserts a claim in “2-D artwork, text, map.” The deposit copy contains copyrightable artwork, text, and a simple outline of the state of Oregon. The registration specialist may communicate with the applicant to ask for permission to remove the reference to “map” or may register the claim with an annotation, such as:

“Regarding authorship information: map is outline map; not copyrightable.  
*Compendium* 918.2.”

#### 618.8(C)(5) Claim in Uncopyrightable Material: Works Created by Two or More Authors

If two or more authors are named in the application, and if it appears that one or more of the authors did not contribute **copyrightable** authorship to the work, the specialist will ask for permission to remove that author’s name from the registration record.

*Examples:*

- *Claim in uncopyrightable material under Section 102(b).* An application is submitted for a screenplay naming Greg Lange as the author of a “teleplay for reality show” and Jennifer Lange as the author of the “reality show format.” A statement on the **deposit copy** states “script by Greg Lange.” The **registration specialist** will communicate with the **applicant** and explain that the format for a television show is not copyrightable. Therefore, the specialist will ask for permission to remove all of Jennifer’s information and the reference to “reality show format” from the registration record.
- *Claim in uncopyrightable material under 37 C.F.R. § 202.1.* An application for a board game is submitted naming Mark Zwisler as the author of “2-D artwork” and Abacus LLC as the author of “text.” The only text that appears in the work is a scorecard for recording information. The registration specialist will communicate with the applicant and explain that blank forms are not copyrightable. Therefore, the specialist will ask for permission to remove all of the company’s information and the term “text” from the registration record.
- *Claim in uncopyrightable material under the Compendium.* An application is submitted for a medical textbook, naming, Dr. Arvind Desai as the author of “text” and MRI Associates as the author of “photographs.” The photographs in the work are medical x-rays. The registration specialist will communicate with the applicant and explain that x-rays generally are not copyrightable. Therefore, the registration specialist will ask for permission to remove all of the company’s information and the term “photographs” from the registration record.

#### 618.8(C)(6) Claim in Uncopyrightable Material: Registration Refused

If the **applicant** asserts a **claim** in material that is uncopyrightable under the Copyright Act, **Section 202.1**, or this *Compendium*, and if the claim appears to be limited to that material, the specialist will refuse registration.

*Examples:*

- *Claim in uncopyrightable material under the Copyright Act.* An application names two individuals as the authors of a work described as a “sculpture.” The **deposit copy** is a photograph of a chair containing no separable pictorial, graphic, or sculptural authorship. The **registration specialist** will refuse registration, because the applicant is asserting a claim to copyright in a useful article.

- *Claim in uncopyrightable material under 37 C.F.R. § 202.1.* An application is submitted for a product label. The applicant asserts a claim in “text, 2-D artwork.” The deposit copy merely contains the name of the product in a stylized typeface and a list of ingredients. The registration specialist will refuse registration, because the applicant is asserting a claim to copyright in mere words, mere variations of typographic ornamentation, and a mere listing of ingredients.
- *Claim in uncopyrightable material under this Compendium.* An application is submitted naming Tamlyn Jackson as the author of a “**choreographic work**.” The deposit copy is a DVD depicting various cheerleading routines. The registration specialist will refuse registration, because cheerleading routines do not qualify as **copyrightable** choreographic subject matter.

#### 618.8(D) *De Minimis* Material Claimed in the Author Created Field or the Nature of Authorship Space

The material described in the Author Created field or the Nature of Authorship space must be **copyrightable**. If the author’s contribution to the work is *de minimis*, the U.S. Copyright Office may ask the **applicant** for permission to remove that **claim** from the application or may refuse registration.

##### 618.8(D)(1) Deposit Copy(ies) Contain Copyrightable Authorship and *De Minimis* Material

If the **deposit copy(ies)** contain **copyrightable** material as well as *de minimis* material, the **registration specialist** may register the **claim** without communicating with the **applicant**, provided that the applicant does not claim the *de minimis* material in the Author Created field or the Nature of Authorship space.

*Example:*

- An application is submitted for a greeting card naming Salutations LLC as the author of “2-D artwork.” The deposit copy contains a drawing of a panda and the phrase “FONZ Helps UNESCO. Won’t You?” Because the applicant asserted a claim in the copyrightable artwork, but did not assert a claim in the *de minimis* text, the registration specialist will register the claim without communicating with the applicant.

##### 618.8(D)(2) Claim in Copyrightable Authorship and *De Minimis* Material

If the **applicant** asserts a **claim** in **copyrightable** authorship as well as *de minimis* material, the **registration specialist** generally will ask the applicant for permission to remove the claim in the *de minimis* material. In some cases, the specialist may register the claim with an **annotation** identifying the copyrightable material that has been submitted for registration and stating that the registration does not cover the *de minimis* material claimed in the application.

*Examples:*

- An application is submitted for a work containing a poem and several watercolors. The applicant asserts a claim in “text, artwork.” In the Note to Copyright Office field, the applicant explains that the poem was written by Lord

Byron and that she added the words “she,” “her,” and “woman” to change the gender of the title character. Because these revisions are *de minimis*, the registration specialist will ask the applicant for permission to remove the term “text” and to limit the claim to “artwork.”

- An application is submitted naming Shirley Wonder as the author of “text, 2-D artwork.” The **deposit** is a poster containing a drawing of Jackie Robinson, together with the word “Pioneer” and the phrase “Here’s to You, Mr. Robinson.” Because the text is *de minimis*, the registration specialist will ask the applicant for permission to remove the term “text” from the registration record.
- An application is submitted for a musical work naming Susan Harris as the author of “words and arrangement.” The deposit copy contains only lyrics and chord symbols. The registration specialist may register the claim with an annotation, such as: “Regarding authorship information: Standard chord symbols not registrable. Compendium 802.5(A).”

### 618.8(D)(3) Claim in *De Minimis* Material: Works Created by Two or More Authors

If two or more authors are named in the application, and if it appears that one of the authors contributed *de minimis* authorship to the work, the specialist will ask for permission to remove that author’s information from the registration record.

*Example:*

- An application is submitted for a musical work, naming Bert Mendelson as the author of “music” and Alice Cambridge as the author of “lyrics.” The lyrics consist of the words “I love you” repeated over and over again. The **registration specialist** will communicate with the **applicant** and explain that Alice’s contribution to this work appears to be *de minimis*. If Alice did not contribute any other authorship to the work, the specialist will ask for permission to remove all of Alice’s information and the term “lyrics” from the registration record.
- An application is submitted for a scientific article naming Jason Macro as the author of “text” and Erin Abrunzo as the author of “artwork.” The work contains five pages of text with three figures containing *de minimis* authorship. Because the figures are *de minimis*, the registration specialist will ask the applicant for permission to remove all of Erin’s information and the term “artwork” from the registration record.
- An application is submitted for a work naming Manuel Diego as the author of “technical drawing” and Marcia Mays as the author of “text.” The text consists of three short sentences that describe the applicant’s idea for a new invention. Because the text is *de minimis*, the registration specialist will ask the applicant for permission to remove all of Marcia’s information and the term “text” from the registration record.

**618.8(D)(4) Claim in *De Minimis* Material: Registration Refused**

If the **registration specialist** determines that the author's contribution is *de minimis*, and if there appears to be no other basis for asserting a valid **claim** in the work, the specialist will refuse registration.

*Example:*

- An online application is submitted naming Jason Buck as author of “song lyrics.” The lyrics consist of familiar, short, repetitious phrases, such as “Happy Birthday To You.” The registration specialist will refuse registration.

For a general discussion of *de minimis* authorship, see **Chapter 300**, Section 313.4(B).

**618.8(E) Variances Between the Information Provided in the Application and Elsewhere in the Registration Materials**

As a general rule, the information provided in the Author Created field or the Nature of Authorship space should be consistent with the information that appears in the **deposit copy(ies)** or elsewhere in the registration materials. In some cases, the **registration specialist** may give greater weight to the information that appears in the application, if that information does not raise additional questions concerning the identity of the authors or the ownership of the copyright in the deposit copy(ies).

*Example:*

- An application is submitted for a musical work naming Sally Ember and Derek Thomas as the co-authors and describing each author's contribution as “music, lyrics.” The deposit copy states “music by Derek Thomas; lyrics by Sally Ember.” The registration specialist may register the **claim** without communicating with the **applicant**, because the variance between the application and the deposit copy does not affect the scope of the claim or the ownership of the copyright in the work.

The specialist may communicate with the applicant if there is a substantial variance between the information provided in the Author Created field or the Nature of Authorship space and the statements that appear on the deposit copy(ies) or elsewhere in the registration materials.

*Examples:*

- A paper application is submitted on **Form VA** for a sketching workbook naming Mary Hill as the author and **claimant** of “2-D artwork and some instructional text.” The **copyright notice** on the workbook reads “© Professional Design, Inc.” A statement on the deposit copy indicates Mary Hill is an employee of Professional Design, Inc. The registration specialist may communicate with the applicant, because there appears to be a substantial variance between the application and the statements given in the deposit copy and the copyright notice.
- Prendergast Jones submits an application for a book titled *Try Another Career*. The application states that Prendergast created the “text” and “photographs,” but a statement on the deposit copies reads “text by Prendergast Jones, photographs by Aloicious Gadfly.” The registration specialist may communicate



with the applicant, because there appears to be a substantial variance between the application and the deposit copies.

**618.8(F) Material Claimed in the Author Created Field or Nature of Authorship Space Not Found in the Deposit Copy(ies)**

As discussed in Sections 618.4(A) and 618.4(B), the applicant should only assert a claim in the authorship that will be submitted for registration. The applicant should not assert a claim in material that will not be submitted for registration or material that does not appear in the work.

*Example:*

- An application is submitted for a videogame titled *Ant Farm*. The applicant intends to register the audiovisual material that appears on the CD-ROM, but does not intend to register the computer program embedded in the disc. In the Author Created field the applicant asserts a claim in “audiovisual material.” The applicant does not assert a claim in the computer program and does not submit any of the source code for that program. The registration specialist will register the claim.

If the applicant asserts a claim in material that does not appear in the deposit copy(ies), the registration specialist will communicate with the applicant.

*Examples:*

- An application is submitted for a work consisting solely of text. The applicant has checked all of the boxes that appear in the Author Created field. The registration specialist will communicate with the applicant to request permission to limit the claim to “text” and to remove the other terms from the registration record.
- An application is submitted for a short story naming Ananeka Kanihl as the author of “text” and “illustrations,” but the copy only contains text. The registration specialist will communicate with the applicant to request permission to limit the claim to text and to remove the reference to illustrations.

If the deposit copy appears to be incomplete, the specialist will communicate with the applicant.

*Examples:*

- An application is submitted for a work titled *The Annunaki*. In the Author Created field the applicant asserts a claim in the “entire motion picture.” The deposit copy consists of a written description, such as a screenplay or synopsis. The registration specialist will communicate with the applicant to determine whether the applicant is attempting to register the description alone or if the claim extends to a motion picture, and if the latter, whether a complete copy of the work has been submitted.
- An application is submitted for a twenty-page catalog. In the Author Created field the applicant asserts a claim to copyright in the “text, 2-dimensional artwork.” The deposit copy contains text, but no artwork. The pages on the copy are numbered, but page numbers twelve and thirteen have not been



submitted. The registration specialist will communicate with the applicant to determine if a complete copy of the work has been submitted.

- An application is submitted for a computer program. In the Nature of Authorship space the applicant asserts a claim to copyright in “computer program and **screen displays**.” The deposit copy contains C++ source code, but no screen displays. The registration specialist will communicate with the applicant and explain that registration for this computer program covers any **copyrightable** screen displays generated by the program. Because the applicant expressly asserted a claim in screen displays, the specialist will ask the applicant to submit a copy of the screen displays for examination, or in the alternative, the specialist will ask for permission to remove “screen displays” from the application.

#### **618.8(G) Copyrightable Material in the Deposit Copy(ies) That Has Not Been Claimed in the Application**

As discussed in Sections **618.4(A)** and **618.4(B)**, the **applicant** should identify all of the **copyrightable** authorship that the applicant intends to register in the Author Created field or the Nature of Authorship space.

*Example:*

- Masai Designs intends to register a website containing articles, illustrations, photographs, and animated graphics. In the Author Created / Other field, the applicant asserts a **claim** in “text, 2-D artwork, photographs, and audiovisual material.” The **registration specialist** will register the claim.

In the case of a **collective work** or a **derivative work** the registration specialist may register the claim without communicating with the applicant if the **deposit copy(ies)** contain a substantial amount of copyrightable material that is not mentioned in the application and if the author of that material is not specified in the deposit copy(ies). In this situation, the specialist will conclude that the applicant only intends to register the authorship that is specifically claimed in the application.

If the work was created by a single author, and if there is a specific statement on the deposit copy(ies) indicating that the author created all of the copyrightable material that appears in the work, the specialist may communicate with the applicant or may add an **annotation** to the registration record if the copy(ies) contain a substantial amount of copyrightable material that has not been claimed in the application.

*Example:*

- An application is submitted for a musical work naming Greg Gardner as the author of “lyrics.” A statement on the deposit copy reads “music, lyrics, and performance by Greg Gardner.” The registration specialist may communicate with the applicant to determine whether the claim is intended to cover a musical work and a **sound recording**.

### 618.8(H) Nature of Authorship Statement Omitted from a Paper Application

If the **applicant** fails to complete the Nature of Authorship space in a paper application, the **registration specialist** may register the **claim** if the applicant completed spaces 6(a) and 6(b), provided that those spaces clearly identify the **copyrightable** material that the applicant intends to register and provided that the author named in the application appears to be the author of that material. In this situation, the claim to copyright is defined by the information provided in space 6(b) of the application.

In all other cases, the specialist will communicate with the applicant to request an appropriate authorship statement.

#### *Examples:*

- An application is submitted on **Form PA** for a **motion picture**. The Nature of Authorship space is blank. Space 6(a) indicates that “preexisting footage” has been excluded from the claim, while space 6(b) indicates that the claim is limited to “additional new footage.” The registration specialist will register the claim because the applicant clearly intends to register the “new footage” described in space 6(b).
- An application is submitted on **Form VA** for a book of photographs. The Nature of Authorship space is blank. In space 6(a) the applicant lists the photographs that appear on pages 1, 5, 8, and 9. In space 6(b) the applicant lists the photographs that appear on pages 2, 3, 4, 6, 7, and 10. The registration specialist will register the claim because the applicant clearly intends to register the photographs listed in space 6(b).
- An application to register an article is submitted on **Form TX**. Archie Crab and Shellie Carmack are named as co-authors of the work, but the Nature of Authorship space and space 6(b) have been left blank. A statement on the **deposit copy** states “written and illustrated by Archie Crab and Shellie Carmack.” The registration specialist will communicate with the applicant to request an appropriate authorship statement, such as “text, 2-D artwork.”

### 618.8(I) Nature of This Work

This Section discusses the Nature of This Work space, which appears only in space 1 of Forms VA and PA. This space does not appear in the online application or other paper applications.

The U.S. Copyright Office added this space to Forms PA and VA, because these applications may be used to register different categories of works. The Nature of This Work space should be used to describe the physical nature of the **deposit copy(ies)** (e.g., cartoon, model, globe, chart, puppet, hologram, etc.). It should not be used to describe the authorship that the **applicant** intends to register. See **Registration of Claims to Copyright, 65 Fed. Reg. 41,508, 41,508 (July 5, 2000)**.

### 619 Name of Claimant

This Section discusses the U.S. Copyright Office’s practices and procedures for identifying the **copyright claimant** for a work of authorship.

### 619.1 Who Is Eligible to Be a Copyright Claimant?

An application for registration must identify the name and address of the **copyright claimant**. **17 U.S.C. § 409(1)**. For purposes of copyright registration, the “claimant” is either the author of the work that has been submitted for registration, or a person or organization that owns all the rights under copyright that initially belonged to the author of that work. **37 C.F.R. § 202.3(a)(3)**.

A person or entity that owns one or more — but less than all — of the **exclusive rights** in a work is not eligible to **claim** ownership of the entire copyright in the records maintained by the U.S. Copyright Office. The Office will not knowingly allow a party that owns less than all the exclusive rights in a work to register the copyright in his or her own name, because this would create a misleading and inaccurate public record and it would subvert the purpose of the registration system. **Registration of Claims to Copyright, 43 Fed. Reg. 965, 965 (Jan. 5, 1978)**.

### 619.2 The Claimant Must Be an Individual or a Legal Entity

The **claimant** named in an application must be a human being or a legal entity that is capable of owning property. As a general rule, the **registration specialist** will conclude that a legal entity is capable of owning property if that entity has been named as the copyright claimant, unless there is evidence to the contrary in the registration materials.

### 619.3 When Is an Individual or Legal Entity Eligible to Be a Copyright Claimant?

An application naming the author as the **copyright claimant** may be filed at any time before the copyright expires.

An individual or entity that owns all of the rights under copyright that initially belonged to the author may be named as the copyright claimant at any time during the life of the copyright, provided that the party owns all of the rights, whether by **transfer**, bequeath, or operation of law, as of the date that the application is received in the Office. If the copyright is owned jointly by two or more parties, all of the owners must be listed in the application.

### 619.4 Claimants Distinguished from the Owner of a Copy or Phonorecord of the Work

Ownership of the copyright in a work of authorship is distinct from ownership of the material object in which the work has been **fixed**. Ownership of a copy or phonorecord does not convey any rights in the copyright, nor does the **transfer** of ownership of the copyright convey property rights in any material object in which the work has been fixed (absent an agreement to that effect). **17 U.S.C. § 202**.

### 619.5 Claimants Distinguished from the Applicant and the Correspondent

As discussed above, the author of the work or a person or entity that owns all of the rights in the copyright that initially belonged to the author are the only parties entitled to be named as a **copyright claimant**. However, an application to register a copyright **claim** may be filed by other parties. **37 C.F.R. § 202.3(a)(3), (c)(1)**.

The **applicant** is the party who certifies the application and submits it to the U.S. Copyright Office. An application to register a copyright may be certified and submitted by any of the following parties:

- The author of the work.
- An owner of all the rights under copyright that initially belonged to the author of the work.
- An owner of one or more — but less than all — of the **exclusive rights** in the work.
- A duly **authorized agent** of any of the foregoing parties.

No other parties are entitled to file an application for copyright registration. *See 37 C.F.R. § 202.3(c)(1).*

When completing an application, the applicant will be asked to provide the name, address, and other contact information for the person or persons who should be contacted if the **registration specialist** has questions or concerns regarding the application. This person is known as the correspondent. In most cases, the correspondent and the applicant are the same person, because the correspondent typically certifies and submits the application. In all cases, the correspondent must be one of the following parties:

- An author of the work.
- An owner of all the rights under copyright that initially belonged to the author of the work.
- An owner of one or more — but less than all — of the exclusive rights in the work.
- A duly authorized agent of any of the foregoing parties.

#### 619.6 Naming the Author as Claimant

If the author owns all the rights under the copyright as of the date that the application is filed, the author must be named in the application as the **copyright claimant**. An application to register the copyright in the author's name may be certified and submitted by the author or by the author's duly **authorized agent**. In this situation, the author is considered the claimant and the author or the author's agent is considered the applicant (dependent upon who certified and submitted the application.)

#### 619.7 The Author May Be Named as Claimant Even if the Author Has Transferred the Copyright to Another Party

The author may always be named as the **copyright claimant**, even if the author has transferred the copyright or one or more of the **exclusive rights** to another party, or even if the author does not own any of the rights under copyright when the application is filed. This is due to the fact that the author always retains a legal or equitable interest in the copyright, even if the copyright has been licensed or assigned to a third party. *See generally Registration of Copyright: Definition of Claimant, 77 Fed. Reg. 29,257, 29,258 (May 17, 2012); Applications for Registration of Claim to Copyright Under Revised Copyright Act, 42 Fed. Reg. 48,944, 48,945 (Sept. 26, 1977).*

If the author transferred rights to another party, an application to register the copyright in the author's name may be certified and submitted by any of the following parties:

- The author.
- An owner of all the rights under copyright that initially belonged to the author.
- An owner of one or more — but less than all — of the exclusive rights that initially belonged to the author.
- A duly **authorized agent** of any of the foregoing parties.

In this situation, the author is considered the claimant, and the party who certified and submitted the application is considered the **applicant**.

#### 619.8 Naming a Transferee as Claimant

If a person or organization owns all the rights under copyright that initially belonged to the author, that party may be named in the application as the **copyright claimant**. An application to register the copyright in that party's name may be certified and submitted by the author, the **transferee**, or their respective agents. In this situation, the transferee is considered the claimant, and the author, the transferee, or their respective agents are considered the **applicant** (depending on who certified and submitted the application).

#### 619.9 A Party That Owns One or More — but Less than All — of the Exclusive Rights May File an Application to Register a Copyright Claim, but Cannot Be Named as the Copyright Claimant

A party that owns one or more — but less than all — of the rights that initially belonged to the author cannot register the copyright in that party's own name (*i.e.*, naming itself as the **claimant**). However, that party may certify and submit an application to register the copyright in the author's name. In this situation, the author is considered the claimant, and the party that owns one or more of the **exclusive rights** is considered the **applicant**. See **Registration of Copyright: Definition of Claimant, 77 Fed. Reg. at 29,258**. Although that party cannot be named as the copyright claimant, it may identify itself in the public record by recording the **transfer** or other document pertaining to copyright that transferred the exclusive rights from the author or the author's successor(s) in interest to that party. *Id.* at n.1.

#### 619.10 A Nonexclusive Licensee Cannot Be a Claimant

A **nonexclusive licensee** is not entitled to register a copyright in the licensee's own name, because by definition, a nonexclusive licensee does not own the entire copyright in the work.

As a general rule, a nonexclusive licensee is not entitled to file a copyright application, because a nonexclusive licensee is neither the "copyright owner or [an owner] of any exclusive right in the work." **17 U.S.C. § 408(a)** (specifying the parties who "may obtain registration of the copyright claim"). A nonexclusive licensee may sign or submit an application to register the copyright only

if the licensee is a duly **authorized agent** acting on behalf of the author or a person or entity that owns all the rights under copyright that initially belonged to the author.

### 619.11 One Registration Per Work

A registration that has been issued to an author of a work or a person or entity that owns all the rights that initially belonged to the author secures the statutory benefits of registration to any other author or any other person or entity that owns one or more of the **exclusive rights** in that work. Consequently, the U.S. Copyright Office will not knowingly issue more than one **basic registration** for the same work. 37 C.F.R. § 202.3(b)(11); **Applications for Registration of Claim to Copyright under Revised Copyright Act, 42 Fed. Reg. at 48,945**. However, there are three exceptions to this rule:

- If the work was previously registered as an **unpublished** work, the Office may issue another registration for the first **published** edition of that work, even if the published version “is substantially the same as the unpublished version.” 17 U.S.C. § 408(e); 37 C.F.R. § 202.3(b)(11)(i).
- An author may seek a separate registration naming himself or herself as the **copyright claimant**, even though the Office has already issued another registration that names a different individual or legal entity as the copyright claimant for that work. This is because an author is always able to file as a copyright claimant. 37 C.F.R. § 202.3(b)(11)(ii).
- The Office may issue another registration for a work if an **applicant** alleges that an earlier registration for the same version of that work is unauthorized and legally invalid. 37 C.F.R. § 202.3(b)(11)(iii). For a discussion of adverse claims, see **Chapter 1800**, Section 1808.

For a general discussion of these exceptions, see **Chapter 500**, Sections 510.1 through 510.3.

### 619.12 Completing the Application: Name of Claimant

When completing an online application, the **applicant** should provide the **claimant’s** name and address on the Claimants screen. (When completing the Single Application the applicant should provide this information on the Claimant screen.)

If the claimant is an individual, the applicant should provide the claimant’s first and last name in the fields that appear under the heading Individual Claimant. If the claimant is a legal entity, the applicant should provide the entity’s name in the field marked Organization Name. The claimant’s address should be provided in the fields marked Address 1, Address 2, City, State, Postal Code, Country. If the copyright is co-owned by two or more parties, the applicant should click “save,” and then repeat this process to add the names of each additional claimant.

When completing a paper application on Forms TX, VA, PA, SR, or SE, the applicant should provide the claimant’s name and address in space 4 of the application in the space marked **Copyright Claimant(s)**. If the copyright is co-owned by two or more parties, the applicant should provide the names and addresses of each claimant on space 4. If additional space is needed, the applicant may provide the name and address of each claimant on a continuation sheet submitted on Form CON.

Applicants should provide the claimant's full legal name. Providing a full legal name creates a clear record concerning the ownership of the copyright, and it limits the potential for confusion among claimants with similar names.

The applicant may provide the claimant's home address, business address, or any other address where the claimant maintains a **fixed** and permanent residence or place of business. If the applicant prefers not to provide this information (for instance if the claimant does not want a home address or phone number to appear in the registration record), the applicant may provide a post office box number where the claimant receives correspondence or an address for a third party agent who is authorized to receive correspondence on the claimant's behalf. However, the **registration specialist** will communicate with the applicant if the applicant merely provides an email address or an online address rather than a physical address.

The name and address that the applicant provides on the application will appear on the **certificate of registration**, which will be made available to the public upon request. Likewise, the claimant's name and address will appear in the **online public record** for the work, which can be accessed by anyone who performs a search for the work on the U.S. Copyright Office's website.

Once a certificate of registration has been issued, the Office cannot remove the claimant's name from the registration record or replace it with a pseudonym. The author, claimant, or their respective representatives may submit a written request to the Office to substitute the claimant's current legal name for the name shown in the online public record (but not the offline public record). To do so, the requesting party must submit an affidavit together with a court order granting the legal name change, and must pay the appropriate fee for this service. For more information on this procedure, see **Chapter 1800**, Section 1805.

For a general discussion of privacy issues, see **Chapter 200**, Section 205.

### 619.13 Examination Guidelines: Name of Claimant

#### 619.13(A) Nicknames, First Names, Last Names, and Abbreviated Versions of the Claimant's Name

If the **applicant** provides a nickname or an abbreviated version of the **claimant's** full name, the **registration specialist** may register the **claim** provided that the identity of the claimant is clear. If the claimant's full name appears in the Name of Author field/space, on the **deposit copy(ies)**, or elsewhere in the registration materials, the registration specialist may add that information to the registration record with an **annotation**, such as: "Regarding copyright claimant: claimant's full name added by C.O. from [Name of Author field, deposit copy, Note to Copyright Office, etc.]" The registration specialist will communicate with the applicant if the application merely provides the claimant's given name or surname.

##### *Examples:*

- An application names "Ian McCall a.k.a. Scooter McCall" as the author of music and lyrics. The Name of Claimant field reads "Scooter McCall." The registration specialist will register the claim without communicating with the applicant.



- An online application names “Mr. T” as the claimant for a sound recording. In the Note to Copyright Office field the applicant explains that the claimant’s full name is Terry Thompson Tipley. The registration specialist will add the claimant’s full name to the registration record and add an annotation, such as: “Regarding copyright claimant: claimant’s full name added by C.O. from Note to Copyright Office.”
- A paper application names “Mr. Robin and Ms. McCall” as co-authors and co-claimants for a bird watching guide. The registration materials do not contain any information concerning the claimants’ full names. The registration specialist will communicate with the applicant.

### 619.13(B) Initials

An application may be accepted if the **applicant** provides initials in lieu of the **claimant’s** full name, provided that the claimant is known to the public by those initials or provided that the claimant’s full name is clearly given elsewhere in the registration materials. If it is unclear whether the initials identify the claimant, the **registration specialist** may communicate with the applicant. If the claimant’s full name appears elsewhere in the registration materials, the specialist may add that information to the application with an **annotation**, such as: “Regarding copyright claimant: claimant’s full name added by Copyright Office from copy.”

#### *Examples:*

- An application is submitted for a technical manual published by the General Motors Corporation. The application names “GM” as the author and claimant. The application will be accepted.
- A publisher submits an application for a novel that names “J.K.J. Bowling” as the author and claimant. The application will be accepted.
- A paper application names “FIG” as the claimant. The cover letter explains that the claimant is currently doing business under the name “Fantastic Fruit Company,” that the claimant is planning to change its name to the “Fruit Is Good Company,” and that “FIG” will be used as the company’s trade name. Because it is unclear whether the initials identify the claimant to the public, the registration specialist will add the full name to the registration record, and add an annotation, such as: “Regarding copyright claimant: claimant’s full name added by Copyright Office from cover letter.”

### 619.13(C) Identifying the Author of a Pseudonymous Work as the Copyright Claimant

If the **applicant** intends to register a **pseudonymous** work, and if the author of that work is named as the **copyright claimant**, the applicant generally should provide the author’s legal name in the Name of Claimant field/space, even if the author is generally known by his or her pseudonym. The applicant also may provide the author’s legal name together with the author’s pseudonym in the Name of Claimant field/space, provided that the application clearly indicates which is the legal name and which is the pseudonym (e.g., “Samuel Clemens, whose pseudonym is Mark Twain”). Providing the claimant’s full legal name creates a clear record of ownership, and it may extend or reduce the term of the copyright. See 17 U.S.C. § 302(c).



If the author does not wish to provide his or her legal name anywhere in the application, the applicant may provide the author's pseudonym in the Name of Claimant field/space, provided that the author checks the Pseudonymous box on the application and provided that the work meets the statutory definition of a pseudonymous work.

A pseudonym must be a name. The U.S. Copyright Office will not accept a number or symbol as a pseudonym.

For a detailed discussion of pseudonymous works, see Section 615.2.

#### 619.13(D) Identifying the Author of an Anonymous Work as the Copyright Claimant

If the author and the **copyright claimant** are the same individual, the applicant should provide the author's legal name in the Name of Claimant field/space, even if the **applicant** checks the box indicating that this is an "**anonymous**" work.

If the author does not wish to provide his or her real name in the application, the applicant may state "anonymous" in the Name of Author field/space and may provide a pseudonym in the Name of Claimant field/space.

If the applicant states "anonymous" in the Name of Claimant field/space, the **registration specialist** will communicate with the applicant unless the applicant provides the name of an actual person in the Rights and Permissions field.

*Examples:*

- An online application is submitted for the children's book *The Aaron Spates Museum* by Anonymous. The applicant has checked the box indicating that this is an anonymous work and the Name of Author field has been left blank. The Name of Claimant identifies the claimant as "Natalie Whitcomb;" that name also appears in the Rights and Permissions field; no transfer statement has been provided. The application will be accepted, because it appears that the anonymous author either provided her legal name or her pseudonym in the Name of Claimant field.
- An online application is submitted for a comedy sketch *The Errant Space Museum* by Anonymous. The applicant checked the box indicating that this is an anonymous work and stated "Anonymous" in the Name of Author and Name of Claimant fields. The Rights and Permissions field is blank. The registration specialist will communicate with the applicant and will explain that a legal name or a pseudonym should be provided in the Name of Claimant field.

For a detailed discussion of anonymous works, see Section 615.1.

#### 619.13(E) Two or More Names Provided in the Name of Claimant Field / Space

If the copyright is owned by two or more co-claimants, the **applicant** should provide the name and address for each **claimant**.

When completing an online application, the applicant should enter the name of one claimant in the appropriate fields, click “save,” and then repeat this process for the other claimant(s).

When completing a paper application, the applicant should provide the name of each claimant on space 4 of the application. If additional space is needed, the applicant may use a continuation sheet submitted on Form CON. The name of each claimant should be separated from each other with the word “and” or by listing each name on a separate line.

If the applicant provides more than one name in the Name of Claimant field/space, the **registration specialist** will communicate with the applicant if the identity or number of the claimants or co-claimants is unclear.

### 619.13(E)(1) Applications Submitted on Behalf of the Copyright Claimant

As a general rule, the **registration specialist** will communicate with the **applicant** if the Name of Claimant field/space states that one party is asserting a copyright **claim** on behalf of another party.

*Example:*

- Roberta Timmons submits a paper application on **Form VA** to register a sculpture. Roberta is named as the author and the Name of Claimant space reads “Robinson Cruz, LLC on behalf of Roberta Timmons.” The registration specialist will communicate with the applicant, because it is unclear whether Robinson Cruz, LLC is the **copyright claimant** or a duly **authorized agent** who is submitting the copyright claim for Roberta.

### 619.13(E)(2) Two or More Names Separated by Conjunctions or Punctuations Marks in a Paper Application

If the copyright is owned by two or more **claimants**, the **applicant** should use “and” between the claimants’ names in a paper application, rather than “or” and rather than “and/or.” The **registration specialist** will communicate with the applicant if two or more names are provided in the Name of Claimant space together with the conjunction “or” (e.g., “John Smith or Jane Doe”) or “and/or” (e.g., “John Smith and/or Jane Doe”).

*Examples:*

- An application is submitted on **Form TX** for a guide book on farmers’ markets, naming “Miriam Burchard and The House of Miriam, Inc.” as co-claimants. The registration specialist will register the **claim**.
- An application is submitted on **Form VA** for a comic strip. The application names Nancy Spring as the author of “2-D artwork” and Mario Van San as the author of “text.” The Name of Claimant space names “Nancy Spring and/or Mario Van San” as the claimant(s). The registration specialist will ask the applicant to identify the party(ies) who own the copyright in this work.

In the alternative, the name of each claimant may be separated by a comma, semicolon, or slash (e.g., “John Smith, Jane Doe,” “John Smith; Smith Publishing,” “John Doe / Jane Smith”). The U.S. Copyright Office discourages applicants from using hyphens, dashes, parentheses, or other

forms of punctuation in space 4 of the paper application (e.g., “John Smith (Smith Publishing),” “John Smith — Jane Doe”).

As a general rule, the registration specialist may register a claim if each name appears to be complete, and it is clear that each name refers to a separate individual or legal entity, or if each name clearly refers to an author who is named in the application or elsewhere in the registration materials. The registration specialist will communicate with the applicant if it is unclear whether each name refers to a separate claimant.

*Examples:*

- A paper application is submitted for a song containing music and lyrics. “John Dalton; Mary Keating” are named as the co-authors and co-claimants for this work. The application will be accepted.
- A paper application is submitted for a novel, naming an individual as the author of the work. The Name of Claimant space reads “Dole Publishing, Inc./Reynolds Corporation,” and an appropriate **transfer statement** has been provided. The application will be accepted, because the co-claimants appear to be separate legal entities.
- A paper application is submitted for a book on how to apply to law school. “Martha Espinosa” is named as the author and “Martha Espinosa (Law School Solutions)” is named as the claimant. No transfer statement is given. The registration specialist will communicate with the applicant to determine whether Martha and Law School Solutions are separate legal entities and, if so, whether the company has the right to be named as a co-claimant.

### **619.13(E)(3) Individual Name Listed Above or Below the Name of a Legal Entity in a Paper Application**

If the name of an individual appears above the name of an organization in a paper application and if there are no other ambiguities in the registration materials, the **registration specialist** will conclude that the individual is the **copyright claimant** and that the name of the organization is part of the claimant’s address, regardless of whether the address contains the terms “c/o,” “in care of,” “attention,” or the like.

If the name of an unincorporated organization appears above the name of an individual in a paper application and if there are no other ambiguities, the specialist will conclude that the organization is the claimant, regardless of whether the organization appears to be a sole proprietorship or whether the individual appears to be doing business under the name of that organization. Likewise, if the name of an incorporated organization appears above the name of an individual in a paper application and if there are no other ambiguities, the specialist will conclude that the organization is the claimant and that the name of the individual is simply part of the claimant’s mailing address.

*Examples:*

- A paper application names Joan Donnelly as the author of an **architectural work**. The following information appears in the Name of Claimant space:

Joan Donnelly  
Hoosier Designs  
456 Enterprise Avenue  
Gary, Indiana 46401

The registration specialist will register the **claim** without communicating with the **applicant**, because it appears that Joan is the sole copyright claimant and the name of the company is part of her address.

- A paper application names Nancy Cross as the author of music and lyrics. The following information appears in the Name of Claimant space:

Cross Music Publishing  
c/o Nancy Cross  
234 Elm Avenue  
Chicago, Illinois 60018

The **transfer statement** indicates that the claimant obtained the copyright in this work “by written agreement.” The registration specialist will register the claim, because it appears that the Cross Music Publishing is the sole copyright claimant and that the individual’s name is part of the company’s mailing address.

- A paper application names Alexis Consulting, Inc., as the author and the **work made for hire** box is checked “yes.” The following information appears in the Name of Claimant space:

Alexis Consulting, Inc.  
Robin Alexis  
1001 Main Street  
Parole, MD 21401

The registration specialist will register the claim, because it appears that Alexis Consulting, Inc. is the sole copyright claimant and that the individual’s name is part of the company’s mailing address.

### 619.13(F) Group of Individuals Provided in the Name of Claimant Field / Space

**Applicants** should provide the name(s) of the specific individual(s) or organization(s) that own the copyright in the work, even if the copyright is owned by a group of individuals.

*Example:*

- An application is submitted for a **sound recording**, naming George Baker, Michael Warner, and Nathan Pike as the co-authors and co-claimants for the work. A statement on the **deposit copy** reads “Performed by the Busboys. The Busboys are George Baker, Michael Warner, and Nathan Pike.” The **registration specialist** will register the **claim**.

If the applicant names a group of individuals in the Name of Claimant fields/spaces (e.g., “The 2014 Graduating Class of Summer Glen Elementary School”), the applicant also should provide the name of each individual in the group.

The registration specialist may register a claim without communicating with the applicant if the criteria for membership in the group are clearly defined, if the members of that group were clearly established as of the date that the application, deposit, and filing fee were received, and if the applicant provides the names of representative individuals in the application. If the membership of the group is vague or ambiguous, or if the applicant fails to provide the names of any individuals, the registration specialist will communicate with the applicant.

*Examples:*

- An application is submitted for a sound recording naming Derek Sable, Angelo Armstrong, and Kenneth Rainey as the co-authors of the work. “Between Extremes” is named as the **copyright claimant**, but no **transfer statement** is provided. The deposit copy reads “performed by Between Extremes.” The registration specialist will communicate with the applicant, because the identity of the copyright claimant(s) is unclear.
- “The James Martin Family” is named as claimant for a genealogy. The registration specialist will communicate with the applicant because “family” is an ambiguous term and the members of this group are not clearly defined.
- An application names “All Right Thinking People” as the claimant for an on-line message board. The registration specialist will communicate with the applicant, because it is impossible to identify the members of this group.

### **619.13(G) Individual and Unincorporated Business Organization Provided in the Name of Claimant Field / Space**

If an individual and an unincorporated business organization are named together in the Name of Claimant field/space, the application may be accepted if it seems likely that the organization is merely a trade name or other assumed name for the individual. As a general rule, the **registration specialist** will conclude that an individual and an unincorporated organization are the same legal entity if the **applicant** clearly states that the individual is “trading as,” “doing business as,” or “also known as” the organization or that the unincorporated organization is “solely owned by” the individual.

Likewise, the specialist will conclude that an individual and an unincorporated organization are the same legal entity if there is a clear relationship between the name of the individual and the name of the organization (e.g., John Smith/Smith Publishing Company).

The specialist will communicate with the applicant if the individual and the organization appear to be separate legal entities, if the organization appears to be a corporation, or if the relationship between the individual and the organization is unclear.

*Examples:*

- An online application names “Dear John Publishing Company” as the author of a directory. The **claimant** is identified as “John Deering d/b/a Dear John Publishing Company.” The application will be accepted.
- An online application names “Ken Clark” as the author of a photograph. The applicant names “Ken Clark Studios, solely owned by Ken Clark” as the claimant. The application will be accepted.
- An online application names “Pauline Corelli” as the author of a jewelry design and “Corelli Designs” as the claimant. The registration specialist may register the **claim** without communicating with the applicant. The author and the organization appear to be the same legal entity, because they both contain the name “Corelli.”
- A paper application names “George Jefferson” as the author of a **sound recording** and “George Jefferson (Bentley Sound)” as the claimant. No **transfer statement** has been provided. The registration specialist will communicate with the applicant, because it is unclear whether George and Bentley Sound are the same legal entity.

#### **619.13(H) Individual and Incorporated Organization Provided in the Name of Claimant Field / Space**

If an individual and an incorporated organization are named together in the Name of Claimant field/space, and if a **transfer statement** is not provided or is unclear, the **registration specialist** will communicate with the **applicant** to determine whether the individual or the organization is the **copyright claimant**.

Examples of corporate designations and abbreviations that may trigger this inquiry include:

- Incorporated (Inc.)
- Corporation (Corp.)
- Limited (Ltd.)
- Professional Corporation (PC)
- Limited Liability Company (LLC)
- Limited Liability Partnership (LLP)
- Public Limited Company (plc)
- Aktiengesellschaft (AG)
- Aktibolag (AB)
- Aktieselskab or Aksjeselskap (A/S)

- Akciová spoločnosť or Akciová společnost (a.s.)
- Besloten Vennootschap (B.V.)
- Gesellschaft mit beschränkter Haftung (GmbH, GesmbH, or Ges.m.b.H.)
- Société Anonyme, Sociedad Anónima, or Sociedad por Acciones (S.A.)
- Sociedad Anónima de Capital Variable (S.A. de C.V.)
- Sociedad Anónima Bursátil de Capital Variable (S.A.B. de C.V.)
- Sociedad de Responsabilidad Limitada de Capital Variable (S. de R. L. de C.V.)

*Examples:*

- An online application is submitted naming Joan Dolan as the author of a book of poetry for teenagers and naming “Joan Dolan (Dolan Publishing Company, Inc.)” as the copyright claimant. The transfer statement reads “author is sole owner of Dolan Publishing.” Because an individual and a corporation are separate legal entities, the specialist will communicate with the applicant to determine whether Joan or Dolan Publishing own the copyright in this work.
- A paper application is submitted naming Adelaide Drescher as the author of “2-D artwork” and naming “Adelaide Drescher d.b.a. Adelaide Dree AG” as the copyright claimant. No transfer statement is provided. Because an individual and a corporate organization are separate legal entities, the registration specialist may communicate with the applicant to determine whether Adelaide or Adelaide Dree AG owns the copyright in this work.

### 619.13(I) Partnership Named as Claimant

Typically, a partnership is an unincorporated business that is owned by two or more individuals. A partnership necessarily requires a written agreement stipulating that the partners are co-owners of any property held by the partnership, and works created by one of the partners are often considered the property of the partnership as a whole. Therefore, if an application names a partnership as the **claimant** without providing a **transfer statement** explaining how the partnership obtained ownership of the copyright, the application may be accepted if it is clear that at least one of the authors is a member of that partnership.

*Example:*

- An application is submitted for a song that names Jim Chapman, Jake Brody, and Jessie Adams as co-authors of music and lyrics. The application names “The Three J’s, a partnership” as the copyright claimant. The **registration specialist** may register the **claim** without communicating with the **applicant**, because it appears that the authors of this work are members of the partnership.

### 619.13(J) Trust or Estate Named as Claimant

The Office will accept an application that names a trust or estate as the copyright claimant if that entity is a legal or beneficial owner of the copyright.

If an individual and a trust or estate are named together in the Name of Claimant field/space, the application may be accepted if it seems likely that the individual is a beneficiary or duly authorized agent of the trust or estate. For example, the **registration specialist** will accept an application that identifies an individual with one or more of the following terms:

- Administrator
- Administrator on behalf of \_\_\_\_\_
- Beneficiary
- Executor
- Fiduciary
- Personal Representative
- Trustee

If the **applicant** fails to provide a **transfer statement** explaining how the trust or estate obtained ownership of the copyright, the **registration specialist** may communicate with the applicant unless there is a clear relationship between the name of the author and the claimant.

*Examples:*

- An application is submitted for a screenplay naming “Riggins National Bank, Trustee” as the sole copyright claimant. Riggins National Bank holds the copyright in a **motion picture** screenplay in trust for the investors in a motion picture venture. The transfer statement indicates that the trustee obtained the copyright in this work “by contract.” The registration specialist will register the **claim**.
- An application is submitted for a sculptural work naming Joan Mason as the author and stating that the author died in 2006. The application names “Brian Mason, Administrator” as the copyright claimant, and the transfer statement indicates that the claimant obtained the copyright “by court order.” The registration specialist will register the claim.
- An application is submitted for a painting. The application names Jonathan Edwards as the author of this work and states that the author died in 2008. “The Estate of Jonathan Edwards” is named as the copyright claimant, but a transfer statement is not provided. The registration specialist may register the claim without communicating with the applicant. The claimant appears to be the owner of the work by inheritance, because there is a clear relationship between the name of the author and the claimant.



- An application is submitted for an autobiographical work, naming Roseanne Smith as the author and stating that the author died in 2010. “The Roseanne Smith Living Trust” is named as the claimant, and there is no transfer statement. The registration specialist will communicate with the applicant, because it is unclear whether the trust still exists or whether it terminated upon the author’s death.
- An application is submitted for a musical work naming Michael Stevens as the author and stating that the author died in 2012. “Hands Across the Oceans Trust” is named as the claimant, but no transfer statement is provided. The registration specialist will communicate with the applicant to request an appropriate transfer statement.

### 619.13(K) Variances Between the Name Provided in the Name of Claimant Field / Space and Elsewhere in the Registration Materials

As a general rule, the individual or legal entity that is identified in the application as the copyright claimant should be consistent with the ownership information that appears on the deposit copy(ies) or elsewhere in the registration materials. Ordinarily, the registration specialist will give greater weight to the information that appears in the Name of Claimant field/space. If appropriate, the specialist may add an annotation to the registration record to clarify the claimant’s name or to add information that appears on the deposit copy(ies) or elsewhere in the registration materials. The specialist will communicate with the applicant if the variance between the name provided in the Name of Claimant field/space is inconsistent with the ownership statements that appear on the deposit copy(ies) or elsewhere in the registration materials.

*Example:*

- An application is submitted naming Maureen Hope Sullivan as the author and Maureen Sullivan Romagnoli as the copyright claimant. A statement on the deposit copies reads “by Maureen Romagnoli.” The registration specialist may register the **claim** because Maureen Sullivan appears to be the author’s maiden name or married name. The specialist may add an annotation to the record, such as: “Regarding author information: name appears on deposit copy as Maureen Romagnoli.”

### 619.13(L) Variance Between the Name Provided in the Name of Claimant Field / Space and the Copyright Notice

As a general rule, the **registration specialist** will not communicate with the **applicant** if the name provided in the Name of Claimant field/space does not match the name provided in a **copyright notice**, if any. (A proper copyright notice was required for works **published** in the United States before March 1, 1989, but this requirement does not apply to **unpublished** works, **foreign works**, or works published in the United States after that date.) However, the specialist may communicate, if the variance suggests that the individual or entity named in the application is not the correct **copyright claimant**.

*Examples:*

- An application for an unpublished work names Patrick Mink as the author and copyright claimant. The copy contains the following copyright notice:

“© 2003 Market Music Company.” The registration specialist may register the **claim** without communicating with the applicant, because the name that appears in the **notice** could be an alternative name for the copyright claimant, such as a “doing business as” designation.

- An application for a published work names “Frank Music Company” as the author and copyright claimant. The **deposit copies** contain the following copyright notice: “© 2011 Excelsior Music.” The registration specialist may register the claim without communicating with the applicant, because the name that appears in the notice could be an alternative name for the copyright claimant, such as an “also known as” designation.
- An application is submitted for a children’s book. Gloria Nelson is named as the author of “text;” Frank Moore is named as the author of “illustrations.” Gloria Nelson is named as the sole copyright claimant. No **transfer statement** is provided. The book contains a copyright notice that reads “text © Gloria Nelson; illustrations © Frank Moore.” Because the claimant name on the application varies from the information provided in the copyright notice, the registration specialist may communicate with the applicant to determine who owns the copyright in the illustrations.

#### **619.13(M) Statements Concerning the Claim to Copyright in the Name of Claimant Field / Space**

To register a work of authorship, the **applicant** should identify the work that will be submitted for registration and the applicant should assert a **claim** to copyright in that material. As discussed in Sections **618** and **621**, this information should be provided in the Author Created field, and if applicable, in the New Material Included field in the online application, or in space 2, and if applicable, in space 6(b) of the paper application. The Office strongly discourages applicants from providing this type of information in the Name of Claimant field/space or in the Transfer field/space. Statements such as “John Smith: wrote words; Jane Doe: wrote music” or “John Smith — owner of words; Jane Doe — owner of words” may raise a question as to whether the **claimant** is an owner or co-owner of the copyright in the entire work or whether the claimant merely owns the copyright in a specific element of a **collective work** or **derivative work**.

#### **619.13(N) Percentage of Copyright Ownership in the Name of Claimant Field / Space**

The U.S. Copyright Office strongly discourages **applicants** from providing percentages in the Name of Claimant field/space (e.g., John Smith 50%; Jane Doe — one half share, etc.) because this may raise a question as to whether the **claimant** owns the entire copyright in the work.

#### **619.13(O) Owner of Copyright for a Limited Term**

The U.S. Copyright Office will accept an application stating that the **claimant** owns all the exclusive rights in the work for a limited term or a limited period of time, if it is clear that the claimant owned the rights as of the date that the Office received the application, deposit, and filing fee. If it appears that the claimant did not own all the rights when the claim was received

or if the claim was filed after the period of ownership expired, the **registration specialist** will communicate with the **applicant**.

### 619.13(P) Future and Contingent Interests

An individual or legal entity that owns a future interest in the copyright cannot be named as a **copyright claimant**. Likewise, an individual or legal entity who may obtain all of the rights under the copyright based upon a future contingency cannot be named as a copyright claimant. In the following examples, the **registration specialist** would accept an application that names “John Doe” or “John Doe Company” as the copyright claimant, but would ask for permission to remove the name of the party with only a future interest from the Name of Claimant field/space.

*Examples:*

- “John Doe, or upon his death, Mary Doe.”
- “John Doe, and by will, Mary Doe.”
- “John Doe, and after ten years, Sam Doe.”
- “John Doe, or if she survives, Mary Doe.”
- “John Doe Company or, should its corporate headquarters move to Iowa, Howard Doe Company.”

### 619.13(Q) Deceased Individual or Defunct Entity Named as a Claimant

As a general rule, the **claimant** named in the application must be an individual or legal entity capable of owning the copyright in the work. If it appears that the claimant died or ceased to exist before the application was received, the **registration specialist** may communicate with the **applicant** to request the identity of the current owner of the copyright.

If the author is the only party who is eligible to be named as the copyright claimant, and if the author is deceased or a defunct organization, the U.S. Copyright Office will accept an application that names the author as the copyright claimant. Likewise, the Office will accept an application that names a claimant who owns all of the rights that initially belonged to a deceased author, such as the author’s estate, devisee, or heir.

### 619.13(R) Identifying the Claimant by Referring to Other Records

The **claimant’s** name and address should be clearly identified in the Name of Claimant field/space. If the claimant can be identified only by referring to documents or records that have not been submitted with the registration materials, the **registration specialist** will communicate with the **applicant**.

*Example:*

- An application for a real estate map names the claimant as “Owner of Plat B, Square 464 on page 844 of Record Book 501, Office of the Recorder of Deeds,

Mexia, Texas.” The registration specialist will ask the applicant to provide the claimant’s full name and address.

#### 619.13(S) Name of Claimant Unknown

The **registration specialist** will communicate with the **applicant** if the applicant states that the **claimant** is “unknown” or otherwise fails to identify the claimant by name, and instead enters a number, symbol, or descriptive statement in the Name of Claimant field/space, such as “publishing designee” or “copyright control.” If the applicant is unable to identify the individual or legal entity that owns all of the rights under the copyright, the applicant should provide the author’s name in the Name of Claimant field/space, because as discussed in Section 619.7, the author may always be named as the copyright claimant even if the author has transferred the copyright to another party.

#### 619.13(T) Name of Claimant Omitted

If the **applicant** fails to provide the **claimant’s** name and address in an online application, the application will not be accepted by the U.S. Copyright Office’s electronic registration system.

If the applicant fails to provide the claimant’s name and/or address in a paper application, the registration specialist will communicate with the applicant.

### 620 Transfer Statement

This Section discusses the U.S. Copyright Office’s practices and procedures for providing a **transfer statement** for works created and/or first **published** on or after January 1, 1978.

A transfer statement is not required for works first published before January 1, 1978. For a detailed discussion of such works, see **Chapter 2100** (Renewal Registration).

#### 620.1 What Is a Transfer of Copyright Ownership?

The Copyright Act states that a **transfer** of ownership “is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the **exclusive rights** comprised in a copyright, whether or not it is limited in time or place of effect.” **17 U.S.C. § 101** (definition of “transfer of copyright ownership”). It also states that a nonexclusive license is not a transfer of ownership. *Id.*

The copyright in a work initially belongs to the author or authors of that work. **17 U.S.C. § 201(a)**. **Section 201(d)** of the Copyright Act explains that “[t]he ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.” As a general rule, a transfer of copyright ownership must be made in writing, and it must be signed by the copyright owner conveying the copyright. **Section 204(a)** of the Copyright Act states that “a transfer of copyright ownership, other than by operation of law, is not valid unless an instrument or conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner’s duly authorized agent.”

## 620.2 What Is a Transfer Statement?

A **transfer statement** is a brief statement in the application that explains “how the claimant obtained ownership of the copyright.” **17 U.S.C. § 409(5)**.

## 620.3 Transfer Statement Distinguished from an Instrument or Conveyance That Transfers the Copyright from One Party to Another

A **transfer statement** is distinct from a legal instrument, conveyance, or other document that transfers the copyright from one party to another. A transfer statement does not convey any rights in the copyright; it is merely a statement in the application affirming that the **claimant** has obtained all of the rights under copyright that initially belonged to the author and specifying the means by which the claimant obtained those rights.

## 620.4 When Is a Transfer Statement Required?

Generally, a **transfer statement** is required if the individual or organization named as **claimant** or co-claimant in the Name of Claimant field/space is not an author of the work. There are a few exceptions to this rule, which are discussed in Sections **620.10(D)(1)** through **620.10(D)(2)**.

### 620.4(A) The Author and the Copyright Claimant Are the Same

If the work was created by a single author, and if the author is named in the application as the sole **copyright claimant**, there is no need to provide a **transfer statement**.

*Example:*

- An online application is submitted for a sculptural work. Alberto Bolero is named as the author and the sole copyright claimant. The work will be approved for registration; no transfer statement is required.

### 620.4(B) The Author and the Copyright Claimant Are Different

If an individual or organization other than the author(s) is named as a **claimant** or co-claimant, the **applicant** should provide a brief statement that explains how that party obtained ownership of the copyright. Specifically, the applicant should explain how the claimant acquired all of the rights that initially belonged to the author of that work. **17 U.S.C. § 409(5)**.

*Examples:*

- An online application is submitted for a **literary work**. Akira Yamato is named as the author; Koi Publishing Inc. is named as the sole copyright claimant. To explain how Koi Publishing Inc. obtained the copyright in this work, the applicant provides a **transfer statement** that reads “by written agreement.” The **registration specialist** will register the **claim**.
- An online application is submitted for an **audiovisual work**. Pradeep Patel and Faiyaz Ahmed are named as co-authors; Pradeep Patel and Desi Studios LLC are named as co-claimants, but a transfer statement has not been pro-

vided. There is no need to provide a transfer statement for Pradeep, because he is one of the authors of the work. However, the registration specialist will ask the applicant to provide a transfer statement that explains how Desi Studios LLC obtained ownership of the copyright in this work.

- An online application is submitted for a graphic work. Franz Gruber is named as the author; Mark Gilbert is named as the sole copyright claimant. The **work made for hire** box is blank and no transfer statement has been provided. Because Gilbert is not the author of this work, the registration specialist will ask the applicant to provide a transfer statement explaining how he obtained ownership of the copyright.

For instructions on how to provide a transfer statement in an online application or a paper application, see Section 620.9 below.

## 620.5 Joint Works

If the work submitted for registration is a **joint work**, then as discussed in Section 613.5, the **applicant** should provide the name of each author who contributed **copyrightable** authorship to that work. In addition, the applicant should provide the name of the person who owns or co-owns the copyright in that work.

If the applicant names all the joint authors as co-claimants, there is no need to provide a **transfer statement**.

*Example:*

- An online application is submitted for a **sound recording** that appears to be a joint work. Maria Irantzu, Maria Ines, and Maria Imelda are named as co-authors and co-claimants of the performance embodied in this recording. The registration specialist may register the claim without communicating with the applicant.

Likewise, no transfer statement is required if all the joint authors are named as co-authors of the work, and if one or more – but less than all – of those joint authors are named as the claimant.

*Example:*

- An online application is submitted for a children's book that appears to be a joint work. Lucinda and Vanessa Perez are named as co-authors of this work. Lucinda is named as the sole copyright claimant, but no transfer statement has been provided. The registration specialist may register the claim without communicating with the applicant.

By contrast, if the applicant names a third party as the claimant for a joint work, the applicant should provide a transfer statement that explains how that party acquired the copyright in that work. If the claimant obtained the copyright from two or more joint authors using a different means for each **transfer**, the applicant should provide an appropriate transfer statement for each author.

*Example:*

- An online application is submitted for a technical drawing, naming Leon Katz and Wolfgang Fritz as co-authors of this work. Rumpelstiltskin LLC is named as the copyright claimant. In the Note to Copyright Office field the applicant explains that Katz assigned the copyright in this work to Rumpelstiltskin LLC through a bill of sale; Fritz assigned the copyright in this work to Rumpelstiltskin LLC through a trust agreement. The transfer statement reads “by written agreement.” The registration specialist will register the claim; the transfer statement adequately explains how the claimant obtained the copyright from each author.

For a general discussion of joint works, see [Chapter 500](#), Section 505.

## 620.6 Works by Two or More Authors That Do Not Meet the Statutory Definition of a Joint Work

If the work was created by two or more authors but does not meet the statutory definition of a **joint work**, the **applicant** should provide a brief statement explaining how the **claimant** obtained ownership of the work that the applicant intends to register.

*Example:*

- Katey Pitt is the author of a murder mystery titled *A Little Dog Laughed*; Mick Anders created the artwork that appears on the dust jacket. Katey and Mick assigned the copyright in their respective works to Pitfall Mystery Publishing. The publisher submits an online application naming Katey Pitt as author of “text,” Mick as author of “artwork,” and Pitfall Mystery Publishing, Inc., as the copyright claimant. The publisher provides a **transfer statement** explaining that it obtained the copyright in the text and artwork “by written agreement.” The **registration specialist** will register the claim with an annotation, such as: “Basis for registration: Unit of publication.”

## 620.7 Derivative Works and Compilations

If an individual or organization other than the author(s) is named as a **claimant** or co-claimant for a **derivative work** or a **compilation**, the **applicant** should provide a **transfer statement** explaining how that party obtained ownership of the copyright. In the case of a derivative work, the applicant should explain how the claimant acquired all of the rights that initially belonged to the individual or organization that created the new or revised material that appears in the work. In the case of a compilation, the transfer statement should explain how the claimant acquired all of the rights that initially belonged to the individual or organization that selected, coordinated, and/or arranged the preexisting materials or data that appear in the compilation.

*Examples:*

- An application is submitted for an English **translation** of a Spanish textbook. The application names Mary Fisher as the author of the translation and names Jones Publishing Company as the copyright claimant. The transfer statement indicates that the publisher obtained the copyright in the translation “by written agreement.” The **registration specialist** will register the **claim**.

- An online application is submitted for a musical arrangement naming XYZ Enterprises, Inc. as the author and Jennifer Sunshine as the copyright claimant. Jennifer states “by written agreement” in the Transfer field to explain how she obtained the copyright in this work. In the Material Excluded field she states “music and lyrics were previously published” and in the New Material Included field she limits the claim to the “musical arrangement.” The registration specialist will register the claim.
- An online application is submitted for a directory. The Association of Herpetologists is named as the copyright claimant, and the Serpentine Society is named as author of the “compilation of professional information.” A transfer statement is not provided. The registration specialist will communicate with the applicant to request an appropriate transfer statement.

## 620.8 Collective Works

A **collective work** and the separate and independent works that appear in the collective work may be registered with the same application, provided that the **claimant** owns the copyright in the individual contributions and the copyright in the collective work as a whole. If the claimant is not the author of the contributions or is not the author of the collective work as a whole, the **applicant** should provide a **transfer statement** explaining how the claimant obtained the copyright in that aspect of the work.

*Examples:*

- An online application is submitted for a book that contains letters written by veterans of the Iraq War. John Roberts is named as the author of the “introduction and the selection, coordination, and arrangement of letters,” and ten individuals are named as the authors of the letters that appear in the book. John is named as the copyright claimant, and the transfer statement states that he obtained the copyright in each letter “by written agreement.” The **registration specialist** will register the **claim**.
- An application is submitted for a cookbook titled *Backyard Grilling* which contains dozens of articles, recipes, photographs, and illustrations. The Brickyard Press is named as the author and copyright claimant; no transfer statement is provided. The registration specialist will register the claim. There is no need to provide a transfer statement, because the Brickyard Press appears to be the author of both the individual contributions and the collective work as a whole.

## 620.9 Completing the Application: Transfer Statement

This Section provides guidance on providing a **transfer statement** in an online application or a paper application.



### 620.9(A) Minimum Requirements for a Transfer Statement

If the **claimant** or co-claimant(s) is not the author of the work, the **applicant** should provide a brief statement that explains how each claimant obtained ownership of the copyright. (As discussed above, a **transfer statement** is not required if the claimant is the author of the work.)

The transfer statement should demonstrate that the copyright was transferred to the claimant by written agreement, by inheritance, or by operation of law. **17 U.S.C. § 201(d)(1)**. In addition, the statement should demonstrate that the claimant obtained all the rights under the copyright that initially belonged to the author.

When completing an online application the applicant should provide this information on the Claimants screen by selecting one of the options listed in the drop down menu marked Transfer Statement.

In the case of a **literary work**, a work of the visual arts, a work of the performing arts, a **sound recording**, or a **motion picture/audiovisual work**, the options include “By written agreement,” “By inheritance,” and “Other.” If the claimant obtained the copyright through an assignment, contract, or other written agreement, the applicant should select “By written agreement.” If the claimant obtained the copyright through a will, bequest, or other form of inheritance, the applicant should select “By inheritance.”

When completing an online application for a single **serial** issue, the options include:

- By written agreement(s) with author(s) named on the application/certificate.
- By written agreement(s) with author(s) not named on the application/certificate.
- By written agreement(s) with author(s) named and contributors not named on the application/certificate.
- By written agreement.

If these options do not fully describe the **transfer**, the applicant may select “Other” from the drop down menu and provide a more specific transfer statement in the space marked Transfer Statement Other. Currently, the total amount of text that may be provided in the Transfer Statement Other field is limited to 100 characters.

When completing a paper application, the applicant should provide a transfer statement on space 4 of the application under the heading Transfer. For examples of acceptable transfer statements, see Section **620.9(B)** below.

### 620.9(B) Acceptable Transfer Statements

As a general rule, the U.S. Copyright Office will accept any of the **transfer statements** set forth in Sections **620.9(B)(1)** through **620.9(B)(4)** below (regardless of whether the **applicant** submits an online application or a paper application), unless that statement is contradicted by other information in the registration materials. In most cases, the Office will accept variant forms of these transfer statements.

**620.9(B)(1) Transfer by Written Agreement**

The U.S. Copyright Office will accept a **transfer statement** that clearly states that the copyright was transferred to the claimant by a written agreement.

*Examples:*

- By acquisition, merger, merger agreement, merger transaction, or the like (provided that both the author and claimant are legal entities).
- By assignment.
- By assignment to the United States government.
- By assurance (a legal term meaning writing under seal).
- By bill of sale.
- By contract.
- By exclusive songwriter's agreement (provided that the claimant acquired all of the rights under the copyright, rather than the mere right to reproduce, distribute, perform, and/or display the work).
- By gift agreement.
- By memorandum confirming oral agreement.
- By mutual agreement.
- By note confirming oral agreement.
- By publishing agreement, by publishing contract, by agreement with publisher, publishing conveyance of copyright contract, or the like (provided that the claimant acquired all of the rights under the copyright, rather than the mere right to publish the work).
- By purchase agreement.
- By royalty agreement (provided that the claimant acquired all of the rights under the copyright, rather than the mere right to receive royalties from the use of the work).
- By settlement.
- By transfer of all rights.
- By transfer of all U.S. rights.
- By transfer of title.
- By trust agreement.

- By written agreement.
- By written assignment.
- By written consent.
- By written contract.

#### **620.9(B)(2) Transfer by Written Instrument from a Third Party**

The U.S. Copyright Office will accept a **transfer statement** that clearly states that the copyright was transferred to the **claimant** by a written transfer that was made by a third party.

*Examples:*

- By court order.
- By mortgage foreclosure.
- Deed from trustee in bankruptcy.
- From mortgagee after foreclosure.

#### **620.9(B)(3) Transfer by Inheritance**

The U.S. Copyright Office will accept a **transfer statement** that clearly states that the copyright was transferred to the **claimant** by will or by the applicable laws of intestate succession.

*Examples:*

- By descent.
- By inheritance.
- By intestate succession.
- By will.
- Heir of author.
- Heir under state law.
- Sole distributee of author who died intestate.

#### **620.9(B)(4) Transfer by Operation of Law**

The U.S. Copyright Office will accept a **transfer statement** that clearly states that the copyright was transferred to the **claimant** by operation of law.

*Examples:*

- By operation of state community property law.
- Community property state.
- Partnership agreement.
- [Author] is a partner in this partnership.

## 620.10 Examination Guidelines: Transfer Statement

The **transfer statement** provided in the application will appear on the **certificate of registration** and the **online public record**. Therefore, the statement should be as accurate and complete as possible in order to provide a reliable public record.

As a general rule, if the **claimant** named in the application is not an author or co-author of the work, the **applicant** should provide a transfer statement. The **registration specialist** will communicate with the applicant if the application fails to provide a transfer statement or if the transfer statement is unclear or contradicted by other information in the registration materials.

### 620.10(A) Transfer of Copyright Ownership or Other Documents Pertaining to Copyright Submitted with the Application

A **transfer statement** should be provided in the appropriate field/space of the application.

Submitting a copy of an agreement, conveyance, or other legal instrument is not an acceptable substitute for a transfer statement. If the **applicant** submits a legal document in lieu of providing a proper transfer statement, the **registration specialist** will communicate with the applicant.

The applicant need not and should not submit a copy of any agreement, conveyance, or other legal instrument that may be referenced in the transfer statement. The U.S. Copyright Office will not interpret any agreement or other document pertaining to copyright.

If the applicant would like to record a **transfer** of copyright ownership or any other document pertaining to copyright, that document should be submitted separately using the procedures for recording documents with the U.S. Copyright Office. For a detailed discussion of these procedures, see **Chapter 2300**.

*Examples:*

- An application to register a **motion picture** is submitted along with a photocopy of an assignment involving this work. Biscuit Studios is named as the author, Grey Bullet LLC is named as the **claimant**, and the transfer statement indicates that the claimant obtained the copyright “by written agreement.” The registration specialist will register the **claim**, but will not record the assignment or return the document to the applicant.
- An online application is submitted for a musical work, naming Jonathan Rich as the author and Poor Boy Productions LLC as the sole copyright claimant. In addition, the applicant uploads a signed, original copy of a contract

that purportedly conveys the copyright in the work from the author to the copyright claimant. The Transfer field states, “see document attached.” The registration specialist will communicate with the applicant. The specialist will explain that a contract is not an acceptable substitute for a transfer statement and will ask for permission to replace the phrase “see document attached” with an appropriate transfer statement, such as “by written agreement” or “by written contract.”

- An online application is submitted for a logo, along with a copy of a legal contract. The application names BrandMe LLC as the author of the work and names Lenny Rodgers as the copyright claimant. There is no transfer statement. In the Note to Copyright Office field Lenny explains, “I paid for this logo so I own it. I would like to record the enclosed contract with the Office.” The registration specialist will communicate with the applicant to determine if Lenny owns the copyright in this logo; if so, the specialist will ask Lenny to provide an appropriate transfer statement. In addition, the specialist will explain that if Lenny would like to record the agreement with the Office, the document should be submitted separately using the procedure for recording documents.

#### 620.10(B) Chain of Title

As a general rule, the **applicant** need not provide a **transfer statement** for each **transfer** of ownership between the author and the party that currently owns all of the rights under copyright that initially belonged to the author. Ordinarily, the **registration specialist** will accept a transfer statement that describes the most recent transfer between the **claimant** named in the application and the previous copyright owner, unless the statement is unclear or contradicted by other information in the registration materials.

In special circumstances, the registration specialist may ask the applicant to submit a supplementary statement describing the entire chain of title from the author to the claimant, such as when the work was created by a long-deceased author or a recently-deceased well-known author and there is no indication that the claimant is related to that author.

##### *Examples:*

- Willie Park submits an application to register an oil painting that he found in his attic. Willie names his great-grandfather as the author of the work and he states that the author died in 1965. House of Oil Artwork, LLC is named as the copyright claimant and the transfer statement reads “by assignment.” The registration specialist will ask the applicant to provide a statement describing the chain of title from the author to the copyright claimant.
- Michele Roth submits an application to register an **unpublished** song written by Bob Marley in 1964. Michele names herself as the copyright claimant “by written agreement.” There is no apparent link between the applicant and Bob Marley, and the applicant has not identified the party who transferred the copyright to Michele. The registration specialist will ask the applicant to provide a statement describing the chain of title from the author to the copyright claimant.

## 620.10(C) Unacceptable Transfer Statements

The U.S. Copyright Office will not accept a **transfer statement** indicating that the **claimant** obtained the copyright through an oral agreement; a statement indicating that the claimant does not own all of the rights under copyright that initially belonged to the author; a statement that merely describes the relationship between the author and claimant; or a statement that merely references the material object in which the work has been **fixed**. Each of these topics is discussed in Sections 620.10(C)(1) through 620.10(C)(4) below.

### 620.10(C)(1) Transfer by Oral Agreement

As discussed above, the copyright in a work created and/or first **published** on or after January 1, 1978 cannot be transferred by an oral agreement, unless the agreement has been memorialized in a written note or memorandum signed by the copyright owner or the owner's duly **authorized agent**. 17 U.S.C. § 204(a).

If the **transfer statement** states or suggests that the copyright was transferred to the **claimant** by oral agreement, the **registration specialist** will communicate with the **applicant** to determine whether the agreement was confirmed in a written document signed by the copyright owner. If so, the specialist will ask the applicant for permission to amend the transfer statement to read “by written agreement.”

If the oral agreement has not been confirmed in writing, the specialist will ask the applicant for permission to name the author of the work as the sole copyright claimant.

### 620.10(C)(2) Transfer of One or More—but Less than All—of the Rights under Copyright

As discussed in Section 619.1, the author of the work or a person or entity that owns all of the rights under copyright are the only parties entitled to be named as a **copyright claimant**. If the **transfer statement** states or suggests that the copyright claimant is a party that owns some — but less than all — of the **exclusive rights**, a **nonexclusive licensee**, or any other party that does not own all the rights under copyright, the **registration specialist** will communicate with the **applicant**.

The following are examples of statements that may indicate that the claimant does not own all of the rights in the copyright:

*Examples:*

- Agreement to prepare derivative work.
- By consent.
- By consignment.
- By designation.
- By grant of contractual right to claim legal title in an application for copyright registration.

- By lease.
- By license.
- By permission.
- By purchase of option.
- By release.
- By request.
- By right of first refusal.
- Dedicated to.
- Adaptation rights.
- Broadcast rights.
- Display rights.
- Distribution rights.
- Motion picture rights.
- Performing rights.
- Publication rights.
- Reproduction rights.
- Serial rights.
- By transfer of all rights, except the exclusive right of performance (or the like).
- By transfer of all United States rights in videogame, except right to create hand held version of the work.
- By transfer of all rights in the United Kingdom (or the like).
- By transfer of worldwide rights, except for copyright in the United States of America.

**620.10(C)(3) Transfer Statements That Merely Describe the Relationship between the Author and the Copyright Claimant**

As a general rule, the U.S. Copyright Office will not accept a **transfer statement** that merely describes the relationship between the author and the **claimant** without specifying how the claimant obtained ownership of the copyright.

*Examples:*

- Claimant is the author's father, mother, son, or daughter, or any other member of the author's family (even if the author is a minor).
- Claimant is the mother, father, daughter, son, widow, or widower of a deceased author, or any other member of the deceased author's family (although the Office will accept a transfer statement indicating that the claimant is the author's "heir," acquired the copyright "by will," or similar statements indicating that the claimant obtained the copyright "by inheritance").
- Claimant is the author's spouse (although the Office will accept a transfer statement indicating that the spouse acquired the copyright "by operation of state community property law").
- Author is president of claimant corporation.
- Author owns 100% of the claimant corporation's stock.
- Claimant is the author's agent.
- Claimant is the author's publisher.
- Claimant is the author's licensee.
- Claimant produces all of the author's artistic works.

**620.10(C)(4) Transfer or Possession of Material Object**

The U.S. Copyright Office will not accept a **transfer statement** that merely refers to the **transfer**, ownership, or possession of a material object in which the work has been **fixed**. Ownership or possession of a copy or phonorecord does not convey any rights in the copyright, nor does the transfer of ownership of the copyright convey property rights in any material object in which the work has been fixed (absent an agreement to that effect). **17 U.S.C. § 202.**

*Examples:*

- I bought this painting.
- Mary Monks sent me this video.
- I found this diary in the attic.
- I discovered these papers in a warehouse.
- I bought this sculpture at an auction.
- The author sent me these love letters when we were in high school.
- The author asked me to keep these pictures for him.



**620.10(D) No Transfer Statement Given**

As a general rule, if the name provided in the Name of Author field/space differs from the name provided in the Name of Claimant field/space, the **registration specialist** will communicate with the **applicant** if the applicant fails to provide a **transfer statement**. There are a few exceptions to this rule, which are discussed in Sections **620.10(D)(1)** through **620.10(D)(2)** below.

**620.10(D)(1) Copyright Transferred by Inheritance or by Operation of Law**

As a general rule, an application may be accepted without a **transfer statement** if it is clear that the copyright was transferred to the **copyright claimant** by inheritance or by operation of law.

**620.10(D)(1)(a) Inheritance**

The **registration specialist** may accept an application without a **transfer statement** if the author is deceased and it is clear that the **claimant** is the author's heir.

*Example:*

- An application is submitted for a pictorial work. The **applicant** states that the author is deceased and names the claimant as "Joanne Chan (heiress)." The registration specialist may register the **claim**, even if the applicant fails to provide a transfer statement.
- An application names Cotton Wilson as the author of a play and states that the author died in 2008. The "Estate of Cotton Wilson" is named as the copyright claimant. The registration specialist may register the claim, even if the applicant fails to provide a transfer statement.

**620.10(D)(1)(b) Partnerships**

The U.S. Copyright Office may accept an application if it is clear that the copyright was transferred to an unincorporated partnership by operation of law, even if the **applicant** does not provide a **transfer statement**. Typically, a partnership is an unincorporated business that is owned by two or more individuals. A partnership necessarily requires a written agreement stipulating that the partners are co-owners of any property held by the partnership, and works created by one of the partners are often considered the property of the partnership as a whole. Therefore, if the applicant names an unincorporated partnership as the **claimant**, and it is clear that one or more of the authors is a member of the partnership, the application may be accepted even if the applicant fails to provide a transfer statement.

*Examples:*

- Jerry Bennett submits an online application for a children's book. Jerry is named as the author of the text and Richard Bennett is named as the author of the artwork. The claimant is named as "Jerry & Richard Bennett, a partnership." The **registration specialist** may register the **claim**, even though no transfer statement has been provided.

- Mary Joseph and Josephine Mansfield are named as co-authors of a musical work. The claimant is identified as “Two for the Road, a Partnership.” A statement on the phonorecord reads “Mary and Josephine Are Two for the Road.” The registration specialist may register the claim, even if a transfer statement is not provided. The statement that appears on the phonorecord may be added to the registration **record** with an **annotation**, such as: “Regarding **copyright claimant**: statement on the **deposit copy** reads ‘Mary and Josephine Are Two for the Road.’”

#### 620.10(D)(1)(c) Community Property States

The **registration specialist** may accept an application without a **transfer statement** if the author and the author’s spouse are named as co-claimants, and it is clear that the **claimants** reside in one of the following community property states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin. In this situation, the specialist will conclude that the spouse obtained his or her interest in the copyright as community property.

*Example:*

- Phil Mackey is named as author of a **sound recording**; Phil and his spouse are named as co-claimants. The application indicates that the claimants reside in Carson City, Nevada. The specialist will register the **claim**, even if the **applicant** fails to provide a transfer statement.
- An online application names Mary Wright as the author and names “Mr. and Mrs. Charles and Mary Wright” as the claimants. The application states that the claimants reside in Maine. No transfer statement is provided. The registration specialist will communicate with the applicant to determine if Charles co-owns the copyright in this work. If so, the specialist will ask the applicant to provide an appropriate transfer statement.

#### 620.10(D)(2) Same Person Is Named as Author and Claimant

As a general rule, if the author and the **claimant** are the same person, the **registration specialist** may accept an application without a **transfer statement** even if the names provided in the fields/spaces for the Name of Author and the Name of Claimant are different. For examples that illustrate this practice, see Sections 620.10(D)(2)(a) through 620.10(D)(2)(b) below.

#### 620.10(D)(2)(a) Anonymous and Pseudonymous Works

If the names provided in the fields/spaces for the Name of Author and the Name of Claimant are different, and if the **applicant** does not provide a **transfer statement**, the **registration specialist** may register the **claim** if the **claimant** is an individual and if the applicant checked the box indicating that the work is **anonymous** or **pseudonymous**. In this situation, the specialist will conclude that the applicant provided the author’s real name in the Name of Claimant field/space and concealed the author’s identity in the Name of Author field/space by stating “anonymous” or by providing the author’s pseudonym.

*Example:*

- An application is submitted naming Baby Hog as the author of a pictorial work, and naming John Hodges as the copyright claimant. The Pseudonymous box has been checked, but a transfer statement has not been provided. The specialist may register the claim without communicating with the applicant because it appears that the author and the claimant may be the same individual.

For a detailed discussion of anonymous and pseudonymous works, see Sections 615.1 and 615.2.

#### **620.10(D)(2)(b) Individual Named as Author and Unincorporated Organization Named as Claimant**

If an individual is named as the author and an unincorporated organization is named as the **claimant**, the application may be accepted without a **transfer statement** if it is clear that the individual and the organization are the same legal entity or that the organization is merely a trade name or other assumed name for the individual.

As a general rule, the **registration specialist** may conclude that an individual and an unincorporated organization are the same legal entity if the **applicant** clearly states that the individual is “trading as,” “doing business as,” or “also known as” the organization or that the unincorporated organization is “solely owned by” the individual. Likewise, the specialist may register a **claim** without a transfer statement if there is a clear relationship between the name of the individual and the name of the unincorporated organization.

By contrast, if the individual and the organization appear to be separate legal entities or if the organization appears to be a corporation, the specialist will communicate with the applicant.

*Examples:*

- An application is submitted naming William Smith and Edward Brown as the co-authors of a cookbook. The claimant is named as Smith-Brown Company. A transfer statement has not been provided. The registration specialist may register the claim because the company appears to be an unincorporated business, and because there is a clear relationship between the name of the company and the names of the authors.
- An application is submitted for a fabric design. Margaret O'Connor is named as the author and Sassy Lass Haute Couture is named as the copyright claimant. A transfer statement has not been provided. The registration specialist will communicate with the applicant, because the relationship between the author and the claimant is unclear. In a telephone conversation, Margaret confirms that she does business under the name Sassy Lass Haute Couture. The specialist will add this information to the registration record and will register the claim.
- An application for a multimedia work is submitted naming Lark Bradshaw as the author and Lark Bradshaw (Bradshaw Desktop Publishing, Inc.) as the claimant. The transfer statement reads, “Author is sole owner of Bradshaw Desktop.” Because Bradshaw Desktop Publishing Inc. is a corporation, the registration specialist will communicate with the applicant to determine

whether the claimant is Lark or the corporation. If the corporation is the copyright claimant, the specialist will ask the applicant to provide an appropriate transfer statement.

## 620.11 Extraneous Information Provided in the Transfer Statement Field / Space

As a general rule, if the author and the claimant appear to be the same person or organization the **registration specialist** will ignore any extraneous information that may be provided in the Transfer field/space, unless it explains or contradicts information that has been provided elsewhere in the registration materials.

*Examples:*

- An online application is submitted for a **motion picture** naming “Hari Prasad (Pvt.), Ltd., employer of Vijay Prasad” as the author and **copyright claimant**. The **applicant** checks the box indicating that the work is a **work made for hire**, and the **transfer statement** reads “by written agreement,” “by contract,” or the like. The registration specialist will register the **claim** without communicating with the applicant, because the transfer statement apparently refers to an employment agreement or work made for hire agreement, rather than an assignment of copyright from the author to the copyright claimant.
- Teacher Learning Services, Inc. submits an application for a textbook naming the company as the author and the copyright claimant. The work made for hire box is checked “yes” and the transfer statement states “by contract.” The registration specialist will register the claim without communicating with the applicant, because the transfer statement apparently refers to a work made for hire agreement.
- Dennis Jameson submits an online application for a logo naming himself as the author/claimant of the work. The Transfer field reads “I created this logo for my unincorporated business.” The registration specialist will ignore the extraneous statement and will register the claim.
- An online application names Reed Hall as the author and claimant for a poem. The transfer statement reads “My nephew wrote this poem. I am his legal guardian.” The registration specialist will communicate with the applicant, because the transfer statement suggests that Reed is neither the author nor the copyright owner of this work.

## 621 Limitation of Claim

This Section discusses the U.S. Copyright Office’s practices and procedures for limiting the scope of a **claim** to copyright. A claim should be limited if the work contains an appreciable amount of material that was previously **published**, material that was previously registered, material that is in the **public domain**, and/or material that is owned by an individual or legal entity other than the **claimant** who is named in the application.

**Derivative works** almost always contain **unclaimable material** because, by definition, they are based on, or incorporate, one or more preexisting works. Likewise, **compilations**, including

**collective works**, usually contain unclaimable material because they are often comprised of previously published, previously registered, public domain material, or material that is owned by a third party. To register a derivative work, a compilation, a collective work, or any other type of work that contains an appreciable amount of unclaimable material, the **applicant** should identify and exclude that material in the application using the procedure described in Section **621.8** below.

### 621.1 What Is Unclaimable Material?

A registration for a work of authorship extends only to the new material that the author contributed to that work. It does not extend to any **unclaimable material** that may appear in that work. For purposes of registration, unclaimable material includes the following types of material:

- Previously published material.
- Previously registered material (including material that has been submitted for registration but has not been registered yet).
- Material that is in the **public domain**.
- **Copyrightable** material that is owned by a third party (*i.e.*, an individual or legal entity other than the **claimant** who is named in the application).

These categories are described and discussed below in Sections **621.4** through **621.7**.

If the work described in the application contains an appreciable amount of unclaimable material, the **applicant** should identify the unclaimable material that appears in that work and should exclude that material from the **claim**. Specifically, the applicant should provide a brief, accurate description of the unclaimable material in the appropriate field/space of the application. In the case of an online application, the applicant should provide this information in the Material Excluded field on the Limitation of Claim screen. In the case of a paper application, the applicant should provide this information in space 6(a) in the space marked Preexisting Material. For instructions on how to complete these portions of the application, see Section **621.8(B)** below.

In addition, the applicant should identify the new authorship that is being claimed in the application. The applicant should provide this information in the New Material Included field of the online application or in space 6(b) of a paper application in the space marked Material Added to this Work. In the case of a **derivative work**, the applicant should provide a brief description of the new or revised material that the author contributed to the work. In the case of a **compilation**, the applicant should provide a brief description of the preexisting material or data that has been selected, coordinated, and/or arranged by the author. For instructions on how to complete these portions of the application, see Section **621.8(C)** and **621.8(D)**.

The information provided in these fields/spaces will appear on the **certificate of registration** in the field marked Limitation of Copyright Claim and in the **online public record** in the fields marked Preexisting Material and Basis of Claim (regardless of whether the applicant submits an online application or a paper application).

Completing these fields/spaces correctly is essential to defining the claim that is being registered and it ensures that the public record will be accurate. The **registration specialist** may either annotate the registration record or communicate with the applicant if the work appears to be a

derivative work, a compilation, a **collective work**, or any other work containing an appreciable amount of unclaimable material and if the applicant fails to exclude that unclaimable material from the claim.

*Examples:*

- *Excluding previously published material.* The Slow Food Press published a self-help book titled *Navigating the Supermarket*. The first edition was published in 2009 and the second edition was published in 2010. Because the second edition contains an appreciable amount of previously published material from the first edition, the publisher should exclude that material from the application to register the second edition by stating “previously published edition” in the Material Excluded field and “new text” in the New Material Included field.
- *Excluding previously registered material.* ClamCake Software created a **computer program** called *Sharkbyte v. 1.0*, which was registered in 1999. ClamCake used an appreciable portion of the **source code** for this program to create a new program called *Sharkbyte v. 2.0*. Because the new program contains an appreciable amount of previously registered material, ClamCake should exclude that material from the application to register *Sharkbyte v. 2.0* by providing the registration number for version 1.0 in the Previous Registration field or by stating “previously registered version” in the Material Excluded field and by stating “new computer code” in the New Material Included field.
- *Excluding public domain material.* Alice Masters created a poster that is closely based on illustrations that appear in the book *The Emerald City of Oz* by L. Frank Baum. Because her poster contains an appreciable amount of **public domain** material, Alice should exclude that material from the application to register her poster by stating “some public domain material” in the Material Excluded field and “new artwork” in the New Material Included field.
- *Excluding material that is owned by an individual or legal entity other than the claimant.* Kieran O’Brien submits an application to register a children’s book. The **copyright notice** for this work reads “illustrations © Kieran O’Brien; text © Leaf Garrett.” If the children’s book is not a **joint work**, and if Kieran does not own the copyright in the text, he should exclude that material from the application to register his illustrations by stating “text by Leaf Garrett” in the Material Excluded field and “2-D artwork” in the New Material Included field.
- *Limitation of claim not required.* Susana Fernandez wrote the first draft for her novel in 1995. The following year she wrote a short story, which was never published or registered. In 2005, she incorporated portions of her short story into the novel. The short story and the initial draft of the novel would not be considered unclaimable material, because that material has not been published before, it has not been registered before, it is not in the public domain, and it is not owned by a third party.

## 621.2 Unclaimable Material That Need Not Be Excluded from the Application

If the applicant intends to register a work that contains a minimal amount of unclaimable material, the applicant need not identify or disclaim that material in the application. Unclaimable material should be disclaimed only if it represents an appreciable portion of the work as a whole. Likewise, if the work contains material that is uncopyrightable, such as facts or mere ideas, there is no need to exclude that material from the application.

Generally, applicants do not need to disclaim attributions, citations, or direct quotations, because in most cases it is obvious that this material was not created by the author of the work and is not owned by the copyright claimant. This may be indicated by the quotations marks themselves, or by blocks of text that have been indented and set aside from the rest of the text. It also may be indicated by attributions, citations, or other bibliographic references in the text, captions, footnotes, endnotes, bibliography, or the like.

### *Examples:*

- An application is submitted for a musical work titled *Ask Not What Your Country Can Do For You*. The chorus contains the phrase, “Ask what you can do for your country,” which was taken from President Kennedy’s inaugural address. The New Material Included/Material Excluded fields may be left blank, because the copyright law does not protect short phrases or works of the United States Government. See 17 U.S.C. § 105, 37 C.F.R. § 202.1(a).
- An online application is submitted for an essay. The applicant asserts a claim in “text.” In the Note to Copyright Office field, the applicant explains that he “read many newspapers and books in researching this topic.” The New Material Included / Material Excluded fields may be left blank. The underlying facts, ideas, or concepts derived from the author’s research are not copyrightable, and thus, are automatically excluded from the claim. See 17 U.S.C. § 102(b).
- An online application is submitted for a doctoral dissertation that contains extensive quotes and bibliographic references. The applicant asserts a claim in “text,” but the Limitation of Claim screen is blank. The registration specialist may register the claim.

## 621.3 The Relationship Between the Author Created / Limitation of Claim Fields in the Online Application and the Relationship Between Spaces 2, 6(a), and 6(b) of the Paper Application

As a general rule, a **claim** to copyright is defined by the information provided in the Author Created field (in the case of an online application) or in the Nature of Authorship space (in the case of a paper application). Therefore, all of the material that the **applicant** intends to register should be identified in these fields/spaces.

If the work contains an appreciable amount of unclaimable material, the applicant should complete the Limitation of Claim fields/spaces in order to limit the claim to the new **copyrightable** material created by the author. In this case, the claim to copyright is defined by the information provided in the New Material Included field or the information provided in space 6(b). Therefore, all of the material that the applicant intends to register should be described in this field/space. In such cases, the information that the applicant provides in the New Material Included



field should be duplicated in the Author Created field. Likewise, the information that the applicant provides in space 6(b) should be duplicated in the Nature of Authorship space.

**NOTE:** The applicant should complete the New Material Included field of the online application or space 6(b) of the paper application only when unclaimable material has been excluded from the claim in the Material Excluded field of the online application or in space 6(a) of the paper application. If no material has been excluded from the claim, the applicant should not complete this portion of the application.

See **Corrections and Amplifications of Copyright Registrations; Applications for Supplementary Registration**, 63 Fed. Reg. 59,235, 59,235 (Nov. 3, 1998) (“The Copyright Office follows the general policy of requiring all authors and copyright claimants to supply information, consistent with 17 U.S.C. § 409, concerning the authorship being claimed in the application for registration.”).

#### 621.4 Previously Published Material

If the work described in the application contains an appreciable amount of **copyrightable** material that has been previously **published**, the previously published material should be excluded from the **claim** using the procedure described in Section 621.8(B). This rule applies regardless of whether the previously published material was published in the United States or in a foreign country (or both).

The U.S. Copyright Office requires applicants to disclaim previously published material for several reasons. In particular, this information may be needed to determine:

- The length of the copyright term.
- Whether the relevant deposit requirements have been satisfied.
- Whether the certificate of registration is entitled to certain legal presumptions.
- Whether the copyright owner is entitled to certain legal remedies in an infringement dispute.
- Whether an infringer may rely on certain defenses in an infringement dispute.

Requiring applicants to disclaim previously published material also encourages early registration and promotes administrative efficiency. For information concerning each of these issues, see **Chapter 500**, Section 503.5.

The **applicant** should determine whether the work contains previously published material on the date that the work is submitted to the Office. In other words, if the applicant intends to register a work that contains an appreciable amount of material that was published at any time before the application is submitted, the applicant should exclude that previously published material from the claim.

The date of creation for the work that the applicant intends to register is irrelevant to this determination. In other words, previously published material should be disclaimed, regardless of whether that material was created before or simultaneously with the work that the applicant intends to register. Likewise, previously published material should be disclaimed regardless of



whether that material was published before or after the date of creation for the work that the applicant intends to register.

*Examples:*

- The Piecemeal Press submits an application for a textbook and states that the work was published on March 24, 2005. The **deposit copies** indicate that this is the second edition of this work and that the first edition was published in 2004. In the Material Excluded field the applicant states “previously published edition” to exclude the previously published material from the claim, and in the New Material Included field states “new text” to limit the claim to the new material that appears in the second edition. The **registration specialist** will register the claim.
- Dr. Sabrina Oxley submits an application on **Form TX** for a self-help book on May 1, 2012, and states that the book was published on April 1, 2012. A statement on the cover indicates that the third chapter was published in a fitness magazine on March 1, 2012. In space 6(a) the applicant states “chapter three was previously published” to exclude that chapter from the claim, and in space 6(b) the applicant states “new text” to limit the claim to the new material which was published on April 1, 2012. The registration specialist will register the claim.
- Frank Hempstead is the author of the novel *A Lovable Beast*, which was published in 1945. Hempstead’s daughter published her father’s original manuscript for this work in 2005. The manuscript contains an appreciable amount of text that did not appear in the 1945 edition. The applicant states “A Lovable Beast, published in 1945” in the Material Excluded field to exclude the material that appeared in the 1945 edition. The applicant states “additional text” in the New Material Included field to limit the claim to the new material that was published in 2005. The registration specialist will register the claim.

For a definition and detailed discussion of **publication**, see **Chapter 1900**.

## 621.5 Previously Registered Material

If the **applicant** intends to register a work that contains an appreciable amount of **copyrightable** material that has been registered with the U.S. Copyright Office, the previously registered material should be excluded from the **claim** using the procedure described in Section **621.8(F)**.

Likewise, if the work contains an appreciable amount of copyrightable material that has been submitted for registration, but has not been registered yet, the previously submitted material should be identified on the application as excluded material. Once the previously submitted material has been registered, the material is then considered unclaimable material.

As a general rule, the Office will issue only one registration for each version of a particular work, because multiple registrations for the same work would confuse the public record. **37 C.F.R. § 202.3(b)(11)**. In most cases, this means that the applicant should disclaim any portion of the work that has been registered before.

**NOTE:** There are three exceptions to this rule, which are discussed in Section 619.11 and Chapter 500, Sections 510.1 through 510.3.

Before filing an application with the Office, the applicant should determine whether the work contains previously registered material or material contained in the **deposit copy(ies)** for a previously or concurrently filed application. The date of creation and the date of **publication** for the work that the applicant intends to register are irrelevant to this determination. In other words, previously registered material or material submitted with a previously or concurrently filed application should be disclaimed, regardless of whether that material was created before or simultaneously with the work that the applicant intends to register. It should be disclaimed regardless of whether that material was registered before or after the date of creation for the work that the applicant intends to register. Likewise, it should be disclaimed regardless of whether that material was registered before or after the date of publication for the work that the applicant intends to register.

This rule applies only to copyright registrations issued by the Office, including any registration made under **Section 408** of the Copyright Act, a **renewal registration** made under **Section 304** of the Copyright Act, or a registration or renewal registration made under Title 17 of the United States Code as it existed before January 1, 1978. It does not apply to **preregistrations** issued by the Office. Nor does it apply to material that has been registered with the U.S. Patent and Trademark Office, a foreign intellectual property office, or any other governmental or nongovernmental entity.

*Examples:*

- Bithia Adu submits an application to register the first draft of her short story. The following week she submits an application to register her second draft. In the Material Excluded field the applicant states “first draft has been submitted for registration but has not been registered yet;” in the New Material Included field the applicant states “additional text” to limit the claim to the new authorship that appears in the second draft. The **registration specialist** will register the claim.
- Discovery Studios submits an application using **Form PA** to register season two of the television series *Gold Diggers*. The deposit copy is a box set containing all of the episodes from this season, as well as some bonus footage. In space 6(a) the applicant states “the episodes from this season have been registered before;” in space 6(b) the applicant states “new **motion picture**” to limit the claim to the new authorship that appears in the bonus footage. The registration specialist will register the claim.

## 621.6 Public Domain Material

If the **applicant** intends to register a work that contains an appreciable amount of material that is in the **public domain** in the United States, that material should be excluded from the **claim** using the procedure described in Section 621.8(B).

A copyrighted work enters the public domain in the United States when “its full copyright term has expired.” *Golan v. Holder*, 565 U.S. 302, 307 (2012). In addition, works **published** in the United States without a **copyright notice** on or before March 1, 1989 may be in the public domain, and works registered or published in the United States on or before December 31, 1963 may be in the public domain if the copyright was not renewed in a timely manner.

In most cases, material that is in the public domain has been published before, and as such, should also be excluded from the claim as previously published material.

The applicant should determine whether the work contains any public domain material on the date that the application is submitted to the U.S. Copyright Office. The date of creation and the date of **publication** for the work that the applicant intends to register are irrelevant to this determination. In other words, public domain material should be disclaimed, regardless of whether that material was created before or simultaneously with the work that the applicant intends to register. Likewise, it should be disclaimed regardless of whether that material entered the public domain before or after the date of creation or the date of publication for the work that the applicant intends to register.

This rule applies to material that is in the public domain in the United States. Material that is in the public domain in another country (but protected by copyright in the United States) need not be disclaimed (unless the material has been previously published, previously registered, or is owned by a third party).

*Examples:*

- Henry Glass submits an online application to register a play titled *The Misogynist*. The play is based on a novel that was published in 1920. Henry excludes the public domain material from the claim by stating “based on a novel published in 1920” in the Material Excluded field, and limits the claim to the new dramatic authorship that appears in the play by stating “script” in the New Material Included field. The **registration specialist** will register the claim.
- Nancy Dawson submits an application to register a songbook containing songs written by her father, and claims that she obtained the copyright in this material “by inheritance.” The songbook also contains songs by various nineteenth-century composers. Nancy excludes the public domain material from the claim by stating “songs by nineteenth-century composers” in space 6(a) and limits the claim to the songs written by her father by stating “new music and lyrics” in space 6(b). The registration specialist will register the claim.

## 621.7 Copyrightable Material That Is Owned by an Individual or Entity Other Than the Claimant

If the **applicant** intends to register a work that contains an appreciable amount of **copyrightable** material that is not owned by the **claimant** named in the application, that material should be excluded from the **claim** using the procedure described in Section **621.8(B)**.

The applicant should make this determination on the date that the work is submitted to the Office. In other words, if the work being registered includes an appreciable amount of material that is not owned by the copyright claimant as of the date that the application is filed, the applicant should exclude that material from the claim, and the application should be limited to the material that is owned by the claimant.

The date of creation and the date of **publication** for the work that the applicant intends to register are irrelevant to this determination. In other words, material that is owned by another party should be disclaimed, regardless of whether that material was created before or simultaneously

with the work that the applicant intends to register. Likewise, it should be disclaimed regardless of whether a third party acquired the copyright in that material before or after the date of creation or the date of publication for the work that the applicant intends to register.

*Example:*

- Francis Toldvey wrote a book about Leonard Bernstein that contains extensive passages from the composer's letters, diaries, and memoirs. Francis disclaims this material by stating "passages by Leonard Bernstein" in the Material Excluded field of the online application, and he limits the claim to the new authorship that appears in the rest of the book by stating "all remaining text" in the New Material Included field. The **registration specialist** will register the claim.

## 621.8 Completing the Application: Limitation of Claim

This Section provides guidance on completing the Limitation of Claim screen in an online application for works that contain an appreciable amount of unclaimable material, including derivative works. It also provides guidance on completing spaces 5, 6(a), and 6(b) of a paper application. For specific guidance on completing an application to register a **compilation** or a **collective work** that contains an appreciable amount of unclaimable material, see Section 621.8(D).

### 621.8(A) Identifying the Material That the Author Created

To register a **claim** to copyright, the **applicant** should identify all the **copyrightable** material that the applicant intends to register.

When completing an online application, the applicant should provide this information on the Authors screen by checking one or more of the boxes that appear under the heading Author Created. When completing a paper application, the applicant should provide this information in space 2 of the application under the heading Nature of Authorship.

For guidance on completing this portion of the application, see Sections 618.4(A) and (618.4(B)). For guidance on completing this portion of the application for a compilation or a **collective work**, see Sections 618.6 and 618.7.

As a general rule, the information that the applicant provides in the Author Created field should be identical to the information that the applicant provides in the New Material Included field. Likewise, the information that the applicant provides in the Nature of Authorship space should be identical to the information that the applicant provides in space 6(b).

For guidance in completing the New Material Included field and space 6(b), see Section 621.8(C).

### 621.8(B) Identifying Unclaimable Material That Should Be Excluded from the Claim

If the **applicant** intends to register a work that contains an appreciable amount of unclaimable material, the applicant should exclude that material from the **claim**.

When completing an online application the applicant should identify the unclaimable material by checking one or more of the boxes that appear on the **Limitation of Claim** screen in the field marked Material Excluded that accurately describe the previously **published** material, previously registered material, **public domain** material, or separately owned material that appears in the work. The options for each type of work are listed below:

*Literary Works*

- Text
- Artwork
- Photograph(s)
- Computer program

*Works of the Visual Arts*

- 2-D artwork
- Photograph
- Jewelry design
- Architectural work
- Sculpture
- Technical drawing
- Map

*Works of the Performing Arts*

- Lyrics
- Music
- Musical arrangement
- Text

*Sound Recordings*

- Sound recording

*Motion Pictures and Audiovisual Works*

- Script/Screenplay
- Preexisting music
- Preexisting footage
- Preexisting photograph(s)

*Single Issue of a Serial Publication*

- Text
- Artwork

- Translation
- Compilation
- Photograph(s)

For a definition and discussion of these terms, see Section 618.4(C).

If the terms provided in the checkboxes do not fully describe the unclaimable material that appears in the work, the applicant should provide a more specific description in the space marked Material Excluded/Other. Currently, the total amount of text that may be provided in both the Material Excluded and the New Material Included fields is limited to 1800 characters.

When completing a paper application, the applicant should provide a brief statement on space 6(a) of the application under the heading Preexisting Material that accurately describes the unclaimable material that should be excluded from the claim.

If the work does not contain an appreciable amount of unclaimable material, the Material Excluded field of the online application or space 6(a) of the paper application may be left blank.

For representative examples that demonstrate how to complete this portion of the application, see Section 621.8(E).

### 621.8(C) Identifying the New Material That the Applicant Intends to Register

This Section provides guidance on completing the New Material Included field in the online application and space 6(b) in the paper application.

When completing an application to register a **compilation** or a **collective work** that contains an appreciable amount of unclaimable material, the **applicant** should complete the New Material Included/Other field in the online application or space 6(b) of the paper application using the procedure described in 621.8(D).

**NOTE:** If the work does not contain an appreciable amount of unclaimable material, this portion of the application may be left blank. In other words, the New Material Included field should be completed only if material has been excluded from the claim in the Material Excluded field. Likewise, space 6(b) of the paper application should be completed only if material has been excluded from the claim in space 6(a).

#### 621.8(C)(1) The Online Application: New Material Included Field

When completing an online application, the applicant should identify the new authorship that the **applicant** intends to register on the Limitation of Claim screen by checking one or more of the boxes in the New Material Included field that accurately describe the new authorship that is owned by the **copyright claimant**. The options for each type of work are listed below:

*Literary Works*

- Text
- Artwork
- Photograph(s)
- Computer program

*Works of the Visual Arts*

- 2-D artwork
- Photograph
- Jewelry design
- Architectural work
- Sculpture
- Technical drawing
- Map

*Works of the Performing Arts*

- Lyrics
- Music
- Musical arrangement
- Text

*Sound recordings*

- Sound recording

*Motion Pictures and Audiovisual Works*

- Additional new footage
- Revisions / additions to script
- Production as a motion picture
- All other cinematographic material

*Single Issue of a Serial Publication*

- Text
- Artwork
- Editing
- Translation
- Compilation
- Photograph(s)

For a definition and discussion of these terms, see Section 618.4(C). For representative examples that demonstrate how to complete the New Material Included field, see Section 621.8(E).

**NOTE:** As discussed in Section 621.8(A), the information that the applicant provides in the New Material Included field should be identical to the information that the applicant provides in the Author Created field, but this portion of the application should be completed only if unclaimable material has been excluded from the claim in the Material Excluded field. If the work does not contain an appreciable amount of unclaimable material, the Limitation of Claim screen may be left blank.

As a general rule, the U.S. Copyright Office will accept any of the terms listed above or any combination of these terms, provided that they accurately describe the **copyrightable** authorship being claimed. If the information provided in the New Material Included field is contradicted by the information provided elsewhere in the registration materials, the **registration specialist** may communicate with the applicant.

The applicant should only check the boxes that describe the authorship created by the author(s) named in the application that is owned by the individual or entity who is named as the copyright claimant. The applicant should not assert a claim in material that is not owned by the copyright claimant, material that will not be submitted for registration, or material that does not appear in the deposit copy(ies). Likewise, the applicant should not assert a claim in any material that is uncopyrightable or *de minimis*. For information concerning claims in uncopyrightable or *de minimis* material, see Sections 621.9(E) and 621.9(F).

*Example:*

- An application is submitted for a CD that contains music, lyrics, and a musical arrangement. The **claimant** owns the copyright in the musical arrangement, but does not own the other material that appears in the work. In the New Material Included field, the applicant should check the box for “musical arrangement” and in the Material Excluded field the applicant should check the boxes marked “music” and “lyrics.”

The applicant should check the box(es) that identify the specific type of authorship that the applicant intends to register. For example, if the applicant intends to register a computer program or a set of blueprints, the applicant should check the box marked “computer program” or “technical drawing,” rather than the box marked “text” or “2-D artwork.” Likewise, if the applicant intends to register a new scene for a **motion picture**, the applicant should check the boxes marked “additional new footage” or “revisions/additions to script,” rather than the boxes marked “production as a motion picture” or “all other cinematographic material.”

If the terms provided in the checkboxes do not fully describe the new authorship that the applicant intends to register, the applicant should provide a more specific description in the field marked New Material Included/Other.

*Examples:*

- The applicant intends to register the second edition of a coffee table book. The applicant may assert a claim to copyright in this new authorship by checking the boxes marked “text, artwork, photograph(s),” or by stating “revised text,” “new illustrations,” “some new photographs,” “new introduction,” or the like in the New Material Included/Other field.



- The applicant intends to register the foreword for a textbook. The applicant may assert a claim to copyright in this new authorship by checking the box marked “text” or by stating “text of foreword” in the New Material Included/Other field.
- The applicant intends to register a revised version of a previously published computer program. The applicant may assert a claim to copyright in this new authorship by checking the box marked “computer program” or by stating “revised computer code,” “new computer software,” or the like in the New Material Included/Other field.
- The applicant intends to register an article that combines an appreciable amount of previously published material with additional new text. The applicant may assert a claim to copyright in the new text by checking the box marked “text” or by stating “some new text” in the New Material Included/Other field.
- The applicant intends to register a Spanish translation of *Huckleberry Finn*. The applicant may assert a claim to copyright in this new authorship by stating “Spanish translation” in the New Material Included/Other field.
- The applicant intends to register a portfolio of photographs that contains new photographs and an appreciable number of previously registered photographs. The applicant may assert a claim to copyright in the new photographs by checking the box for “photograph” in the New Material Included field, or by stating “photographs on pages [specify page numbers where new photographs appear]” in the New Material Included/Other field.
- The applicant intends to register new drawings that were added to a graphic novel. The applicant may assert a claim to copyright in this authorship by checking the box for “2-D artwork” in the New Material Included field, or by stating “new drawings added” in the New Material Included/Other field.
- The applicant intends to register a new musical arrangement for a previously registered song. The applicant may assert a claim to copyright in this new authorship by checking the box for “musical arrangement” in the New Material Included field or by stating “new musical arrangement,” “revised music,” or the like in the New Material Included/Other field.
- The applicant intends to register a screenplay adaptation of a previously published book. The applicant may assert a claim to copyright in this new authorship by checking the box for “text” in the New Material Included field, or by stating “adaptation of book for screenplay” in the New Material Included/Other field.
- The applicant intends to register a new treatment for a motion picture. The applicant may assert a claim to copyright in this new authorship by stating “revised treatment,” “new treatment,” or the like in the New Material Included/Other field.

- The applicant intends to register a remix of a previously published sound recording. The applicant may assert a claim to copyright in this new authorship by stating “remixed sound recordings” in the New Material Included/Other field.

**NOTE:** Currently, the total amount of text that may be provided in both the Material Excluded and the New Material Included fields is limited to 1800 characters.

## 621.8(C)(2) Paper Applications: Space 6(b)

When completing a paper application, the **applicant** should identify the new authorship that is owned by the **copyright claimant** that the applicant intends to register. This statement should be provided in space 6(b) under the heading Material Added to This Work.

The applicant should only assert a **claim** in material created by the author(s) named in the application that is owned by the copyright claimant. The applicant should not assert a claim in material that is not owned by the claimant, material that will not be submitted for registration, or material that does not appear in the deposit copy(ies). Likewise, the applicant should not assert a claim in any material that is uncopyrightable or **de minimis**. For information concerning claims in uncopyrightable or *de minimis* material, see Sections **621.9(E)** and **621.9(F)**.

The U.S. Copyright Office may accept any of the terms listed below or any combination of those terms, provided that they accurately describe the new authorship being claimed. In some cases, the Office may accept variant forms of these terms. If the statement provided in space 6(b) is contradicted by the information provided in the **deposit copy(ies)** or elsewhere in the registration materials, the **registration specialist** will communicate with the applicant.

For a definition and discussion of the following terms, see Section **618.4(C)**. For representative examples that demonstrate how to complete space 6(b), see Section **621.8(E)**.

### *Literary Work / Form TX*

- Text
- Artwork
- Photograph(s)
- Computer program

### *Work of the Visual Arts / Form VA*

- 2-D artwork
- Photograph
- Jewelry design
- Architectural work
- Sculpture
- Technical drawing
- Map

*Work of the Performing Arts / Form PA*

- Music
- Lyrics
- Musical arrangement
- Text
- Choreographic work
- Pantomime

*Sound recording / Form SR*

- Sound recording

*Motion Picture or Audiovisual Work / Form PA*

- Additional new footage
- Revisions / additions to script
- Production as a motion picture
- All other cinematographic material

*Single Serial Issue (i.e., a single issue of a serial publication) / Form SE*

- Text
- Artwork
- Photograph(s)
- Translation
- Compilation

**NOTE:** As discussed in Section 621.8(A), the information that the applicant provides in space 6(b) should be identical to the information that the applicant provides in space 2, but this portion of the application should be completed only if unclaimable material has been excluded from the claim in space 6(a). If the work does not contain an appreciable amount of unclaimable material, spaces 6(a) and 6(b) of the application may be left blank.

### **621.8(D) Completing an Application to Register a Compilation, a Collective Work, and/or a Contribution to a Collective Work**

To register a **compilation**, a **collective work**, or a contribution to a collective work that contains an appreciable amount of unclaimable material, the **applicant** should identify the new material that the author created using the procedure described in Sections 618.6 or 618.7.

The applicant should exclude the unclaimable material from the application using the procedure described in Section 621.8(B).

In addition, the application should identify the new material that the applicant intends to register. When completing an online application, the applicant should provide this information on the

Limitation of Claim screen in the field marked New Material Included/Other. Currently, the total amount of text that may be provided in both the Material Excluded and the New Material Included fields is limited to 1800 characters. When completing a paper application, the applicant should provide this information in space 6(b).

The applicant should use the procedure described in Section 618.6 to assert a **claim** in a compilation, and should use the procedure described in Sections 618.7 and 618.7(A) to assert a claim in a collective work. To assert a claim in a contribution to a collective work, the applicant should use the procedure described in Section 618.7(B). To assert a claim in a single issue of a serial publication, the applicant should use the procedure described in Section 618.7(C).

As discussed in Section 621.8(A), the information that the applicant provides in the Author Created/New Material Included fields or in spaces 2 and 6(b) should be identical to each other.

*Examples:*

- In March 2008 the Structured Credit Fund published a compilation containing thousands of statistics concerning collateralized debit obligations (“CDOs”). Specifically, the fund selected a number of CDOs held by Bear Stearns, Lehman Brothers, and other financial institutions. It coordinated this information based on credit rating, credit risk, and other factors, and it arranged the data based on VaR, BET, and other methodologies. In 2009 the fund published a new compilation. The new compilation contains the same selection of data, but the data have been coordinated and arranged in an entirely different manner.

Author Created/Other: Compilation of financial data concerning CDOs.

Material Excluded/Other: Previous version published in March 2008; financial data, namely, selection of CDOs held by Bear Stearns, Lehman Brothers, and other financial institutions.

New Material Included/Other: Compilation of financial data concerning CDOs.

- Estragon & Co. published an anthology titled *House of Cards*. It contains thirty articles about the Great Recession that were published in the *New York Times*, the *Wall Street Journal*, and the *Financial Times*. Estragon’s employees selected the articles, organized them by subject matter, and prepared the footnotes for each article. Jonah Sarah wrote the introduction and assigned the copyright in his contribution to Estragon. The publisher submits an application to register the authorship involved in creating the collective work as a whole, and the authorship in Jonah’s introduction. Estragon excludes the articles from the application, because they were previously published and because the publisher does not own the copyright in that material.

*Title of work being registered:* *House of Cards*.

*Name of Author:* Estragon & Co. (work made for hire box checked “yes”).

*Author Created/Other:* Compilation of articles.

*Name of Author:* Jonah Sarah (work made for hire box checked “no”).

*Author Created/Other:* Introduction.

*Name of Claimant:* Estragon & Co.

*Transfer statement:* By written agreement.

*Material Excluded:* Text.

*New Material Included/Other:* Introduction, compilation of articles.

### 621.8(E) Examples for Identifying Unclaimable Material and the New Material That the Applicant Intends to Register

This Section provides representative examples for completing the Author Created and New Material Included/Material Excluded fields in the online application and spaces 2, 6(a), and 6(b) in the paper application.

*Examples:*

- Online application for a motion picture based on the novel *Little Women*.

*Author Created:* Entire Motion Picture.

*Material Excluded:* Text.

*New Material Included:* Entire Motion Picture.

- Online application for a music book containing some original compositions and arrangements of Beethoven's piano concertos.

*Author Created/Other:* Some original music and arrangement of public domain music.

*Material Excluded/Other:* Some public domain music.

*New Material Included/Other:* Some original music and arrangement of public domain music.

- Online application for a new edition of Shakespeare's *Romeo and Juliet* with a new introduction.

*Author Created/Other:* Text of introduction.

*Material Excluded/Other:* Public domain play, *Romeo and Juliet*.

*New Material Included/Other:* Text of introduction.

- Online application for a reissue of a previously published album containing remixed sound recordings, new photographs, and a previously unreleased bonus track.

*Author Created/Other:* One new sound recording, remixing of previously published sound recordings, some new photographs.

*Material Excluded/Other:* Previously published sound recordings and photographs.

*New Material Included/Other:* One new sound recording, remixing of previously published sound recordings, some new photographs.

- Online application for a new catalog containing new artwork and new text, combined with text and artwork that appeared in a previous catalog.

*Author Created:* 2-dimensional artwork.

*Author Created/Other:* New text.

*Material Excluded/Other:* Previously published text and artwork.

*New Material Included:* 2-dimensional artwork.

*New Material Included/Other:* New text.

- Online application for a children's book containing text by the author, as well as illustrations and clip art by a third party.

*Author Created:* Text.

*Material Excluded/Other:* Illustrations, clip art used with permission.

*New Material Included:* Text.

- Online application for an interview submitted by the interviewer.

*Author Created/Other:* Text of interviewer's questions.

*Material Excluded/Other:* Text of interviewee's answers.

*New Material Included/Other:* Text of interviewer's questions.

- Online application for an illustrated edition of a children's story by Hans Christian Anderson.

*Author Created:* 2-D artwork.

*Material Excluded/Other:* Text.

*New Material Included:* 2-D artwork.

- Online application for a revised version of a previously registered computer program.

*Author Created/Other:* New program code.

*Material Excluded/Other:* Previously registered version.

*New Material Included/Other:* New program code.

- Online application for a holiday ornament containing logos and artwork that are not owned by the copyright claimant.

*Author Created:* Sculpture, 2-D artwork.

*Material Excluded/Other:* Preexisting logos, 2-D artwork.

*New Material Included:* Sculpture, 2-D artwork.

- Online application for a revised map of downtown San Juan, Puerto Rico that shows the location of the new central business district.

*Author Created:* Map.

*Material Excluded/Other:* U.S. Geological Survey map, San Juan municipal maps.

*New Material Included:* Map.

- Paper application for a lithographic print of a nineteenth-century oil painting.

*Space 2:* Reproduction of work of art.

*Space 6(a):* Artwork.

*Space 6(b):* Reproduction of work of art.

- Paper application for a U.S. Geological Survey map with additional maps and text added.

*Space 2:* Maps, text.

*Space 6(a):* Public domain map.

*Space 6(b):* Maps, text.

- Paper application for a revised version of a previously registered screenplay.

*Space 2:* Revised text.

*Space 6(a):* Previously registered screenplay.

*Space 6(b):* Revised text.

For examples that illustrate how to complete an application to register a **compilation**, a **collective work**, or a contribution to a collective work, see Section **621.8(D)**. For additional examples, use [this link](#) to access the “help” section of the U.S. Copyright Office’s electronic registration system.

#### **621.8(F) Identifying Previously Registered Material That Should Be Excluded from the Claim**

If the **applicant** intends to register a work that contains an appreciable amount of material that has been registered with the U.S. Copyright Office, the applicant should provide the registration number for that material and the year that the registration was issued.

Likewise, if the work contains an appreciable amount of material that was previously submitted for registration (but has not been registered yet), the applicant should provide the case number/service request number for the previous application. In the alternative, the applicant may state “pending” and provide the date that the previous application was submitted.

When completing an online application, the applicant should provide this information on the Limitation of Claim screen in the field marked Previous Registration.

When completing a paper application, the applicant should provide this information on space 5 of the application. Specifically, the applicant should check the “yes” box that appears on space 5 under the heading Previous Registration. The registration number that has been assigned to the previous registration should be provided under the heading Previous Registration Number. The year that the previous registration was issued should be provided under the heading Year of Registration.

If the Office has issued multiple registrations for the unclaimable material, the applicant should provide the registration number and year of registration for the two most recent registrations.

If the work submitted for registration does not contain an appreciable amount of previously registered material, the Previous Registration field/space should be left blank.

### 621.8(G) Identifying Preregistered Material

If the **applicant** is seeking a **basic registration** for a work that has been preregistered, the applicant should provide the **preregistration** number for that work in the application for basic registration. Doing so ensures that the records for the preregistration and the basic registration are cross-referenced with each other.

When completing an online application, the applicant should provide the preregistration number for the work (beginning with the prefix “PRE”) on the Publication/Completion screen in the field marked Preregistration Number. The applicant should not provide this information on the Limitation of Claim screen in the field marked Previous Registration.

When completing a paper application, the applicant should provide the preregistration number in space 5 of the application and check the box marked “no” that appears in that space under the heading Previous Registration.

For a detailed discussion of preregistration, see **Chapter 1600**.

## 621.9 Examination Guidelines: Limitation of Claim

This Section discusses the U.S. Copyright Office’s practices and procedures for examining applications for **derivative works**, **compilations**, **collective works**, or any other work that contains an appreciable amount of unclaimable material.

As a general rule, “[a]ny substantive editing of authorship and/or new matter statements and/or material excluded from claim statements, will be done only after contacting the applicant for permission to amend the information” set forth in that portion of the application. **Online Registration to Claims of Copyright**, 72 Fed. Reg. 36,883, 36,887 (July 6, 2007). In some cases, the **registration specialist** may annotate the registration **record** to clarify the extent of the claim and to identify material that should be excluded from the claim. In other cases, the scope of the claim may be clear from the face of the application, even though the application is incomplete or has been completed incorrectly. If the scope of the claim is unclear and the issue cannot be addressed with an **annotation**, the registration specialist will communicate with the applicant.

### 621.9(A) Limitation of Claim Not Required

#### 621.9(A)(1) Works Containing Uncopyrightable Material or a Minimal Amount of Unclaimable Material

As discussed in Section **621.2**, if a work contains only a minimal amount of unclaimable material, the New Material Included, Material Excluded, and Previous Registration fields may be left blank in the online application, or spaces 5, 6(a), and/or 6(b) may be left blank in a paper application. Likewise, there is no need to complete these portions of the application if the work contains material that is not **copyrightable**.

*Examples:*

- An online application is submitted for a 500-page catalog. A statement on the **deposit copy** indicates that the text and photographs on pages 390–395



appeared in an earlier edition of the catalog, but the rest of the content is new. The Limitation of Claim screen may be left blank, because the work does not contain an appreciable amount of previously **published** material.

- An online application is submitted for a comedy sketch. The **applicant** asserts a claim in “text.” In the Note to Copyright Office field, the applicant explains that “the characters in this work are loosely based on two well-known television personalities.” The New Material Included/Material Excluded fields may be left blank, because it appears that the author merely borrowed ideas, themes, or other uncopyrightable material from another work.

### 621.9(A)(2) Applicant Has Not Asserted a Claim in Unclaimable Material

If it is clear that the **claimant** is not asserting a **claim** to copyright in the unclaimable material that appears in the work, the **registration specialist** may register the claim without communicating with the **applicant**. In making this determination, the registration specialist may consider the title of the work or any other information found in the **deposit copy(ies)** or elsewhere in the registration materials.

#### *Examples:*

- The Office receives an online application for a photograph of a terra cotta sculpture. In the Author Created field the applicant checked the box for “photograph(s),” but the Limitation of Claim fields have not been completed. The applicant is clearly asserting a claim in the photograph, and has not asserted a **claim** in the sculpture depicted in the photograph. The registration specialist will register the claim.
- Leading Edge Records submits an online application for a **sound recording**. In the Author Created field the applicant checks the box for “sound recording,” but the Limitation of Claim fields have not been completed. The liner notes indicate that three songs have been used with permission from Monkey’s Uncle Music Publishing. The applicant should have disclaimed these songs in the Material Excluded field, because they appear to be owned by a third party. Nevertheless, the scope of the claim is clear, because the applicant is asserting a claim in the sound recording, but is not asserting a claim in the music embodied in that recording. The registration specialist will register the claim.
- The applicant submits a paper application on **Form VA** for a lithograph. In space 2 the applicant checks the box for “reproduction of work of art.” The work appears to be a reproduction of a painting by Vincent Van Gogh. Spaces 6(a) and 6(b) are blank. The applicant should have disclaimed the Van Gogh painting in space 6(a) and should have described the new material that the applicant intends to register in space 6(b). Nevertheless, the scope of the claim is clear, because space 2 states that the author created a reproduction of a pre-existing work of art. The registration specialist may register the claim with an **annotation**, such as: “Regarding authorship information: art reproductions are derivative works, based on the underlying work of art, per 17 U.S.C. § 101, definition of ‘derivative work.’”

### 621.9(A)(3) Unclaimable Material Described in the Application but Not Included in the Deposit Copy(ies)

If the **applicant** completes the New Material Included/Material Excluded fields or spaces 6(a) and 6(b), but the **deposit copy(ies)** do not appear to contain any unclaimable material, the **registration specialist** may annotate the record to clarify the content of the deposit copy(ies).

*Example:*

- A paper application is submitted for an **unpublished** work consisting solely of words. In space 6(b) the applicant explains that the author “added words to go with music.” In space 6(a) the applicant disclaims “previously **published** music.” The work may be registered with an **annotation** such as: “Regarding limitation of claim: copy only contains words.”

### 621.9(B) Identifying the Author of a Work That Contains an Appreciable Amount of Unclaimable Material

The **applicant** should provide the name of the author(s) who created the new material that the applicant intends to register. The applicant need not and should not provide the name of the author(s) who created any unclaimable material that may be included in the work.

An application may be accepted if it names both the author of the unclaimable material and the author of the new material, provided that the unclaimable material itself has been excluded from the **claim**. Identifying the author of the unclaimable material is considered superfluous in this situation. Likewise, an application may be accepted if the author of the new material and the author of the unclaimable material are named as co-claimants, provided that the work appears to be a **joint work** and provided that the application has been certified by the author of the new material or his or her **authorized agent**. Otherwise, the **registration specialist** will communicate with the applicant.

### 621.9(C) Authorship Unclear

The **copyrightable** authorship that the **applicant** intends to register should be clearly identified in the application, and the scope of the **claim** to copyright in that authorship should be clearly stated. As a general rule, the U.S. Copyright Office will accept any of the terms set forth in Section **621.8(C)**, or any combination of those terms, unless the statement provided in the New Material Included field or space 6(b) is contradicted by information provided elsewhere in the registration materials. For examples of terms that may be considered unclear, see Sections **618.8(A)(1)** through **618.8(A)(10)**.

As discussed in Section **621.8(C)**, the New Material Included field in the online application or space 6(b) of the paper application should identify all of the copyrightable authorship that the applicant intends to register. As discussed in Sections **621.8(A)** and **621.8(C)**, the statement provided in the Author Created field should be identical to the statement provided in the New Material Included field (if any). Likewise, the statement provided in space 2 should be identical to the statement provided in space 6(b) (if any).

If there is a discrepancy between the statements provided in the Author Created/New Material Included fields or in spaces 2 and 6(b), or if the **deposit copy(ies)** contain an appreciable amount

of copyrightable authorship that is mentioned in one portion of the application but not the other, the **registration specialist** may register the claim if the statements are consistent with each other and if the claim is clear based on the registration materials as a whole. If there is a conflict between these statements or if the extent of the claim is unclear, the registration specialist will communicate with the applicant.

#### **621.9(D) Claim Clarified by Information Provided Elsewhere in the Registration Materials**

As a general rule, if the work appears to contain an appreciable amount of unclaimable material and if the **applicant** fails to complete the New Material Included and/or Material Excluded fields in an online application, or fails to complete spaces 5 and/or 6(a) and/or 6(b) on a paper application, the **registration specialist** may register the work if the **claim** is clearly limited by information provided in the application or elsewhere in the registration materials. If so, the specialist may amend the application and/or add an **annotation** to the registration record to clarify the extent of the claim. If this information is not provided in the application itself, the specialist may communicate with the applicant.

#### **621.9(D)(1) Claim Clearly Defined by the Title of the Work**

If the extent of the **claim** is clearly defined by the title provided in the application or the title given on the **deposit copy(ies)**, the **registration specialist** may register the claim, even if the **applicant** failed to complete the Limitation of Claim screen in the online application or spaces 6(a) and/or 6(b) in a paper application.

##### *Examples:*

- An online application is submitted for a work titled *Industrial Training Guide, 15th Edition*, with a **copyright notice** dated 1990–2005. In the Author Created/New Material Included fields the applicant asserts a claim in “text.” In the Material Excluded/Other field the applicant disclaims the “previously **published** text.” The registration specialist may register the claim.
- An online application is submitted for a work titled *Marva Thompson’s New Band Arrangements of J.S. Bach Fugues*. Marva Thompson is named as the author of “music,” but the Limitation of Claim screen is blank. The registration specialist may register the claim without communicating with the applicant. The title indicates that the claim is limited to the new musical arrangements but does not extend to any music that is in the **public domain**.
- A paper application is submitted for a textbook. In space 2 the applicant asserts a claim in “text,” but spaces 6(a) and 6(b) are left blank. The deposit copies indicate that this is the fourth edition of this work. The registration specialist may add this information to the title space and register the claim with an **annotation**, such as: “Regarding title information: ‘fourth edition’ added by Copyright Office from deposit copy(ies).” Alternatively, the specialist may communicate with the applicant to clarify the preexisting material.

### 621.9(D)(2) Claim Clarified by Information Provided in the Author Created Field or Nature of Authorship Space

If the **applicant** fails to complete the New Material Included and/or Material Excluded fields in an online application or fails to complete spaces 6(a) and/or 6(b) on a paper application, the application may be accepted if the **claim** is clearly defined by information provided in the Author Created field or the Nature of Authorship space.

*Examples:*

- UnderWare LLC submits an online application for a **computer program** titled *Passion for Fashion v. 3.0*. UnderWare is named as the sole author of the work and its name appears in the **copyright notice**. In the Author Created/Other field the applicant asserts a claim in “numerous updates to this version.” Although this information should have been provided in both the Author Created and New Material Included fields, the **registration specialist** may register the claim, because the application is clearly limited to the updates that the author made to this work.
- Kyle Kessler submits a paper application for a floral pattern naming himself as the author and **claimant**. In space 6(a) the applicant disclaims “previous unadorned version of artwork.” In the Nature of Authorship space the applicant asserts a claim in “updated adorned version of artwork.” Although this information also should have been provided in space 6(b), the registration specialist may register the claim, because it is clearly limited to the “updated adorned version.”
- A paper application is submitted for a work titled *100 Poems by Ingrid Stacy (Second Edition)*. In the Nature of Authorship space the applicant asserts a claim in “forty new poems.” Although this information should have been provided in both space 2 and space 6(b), the registration specialist may register the claim, because it is clearly limited to the forty new poems that were **published** in the second edition.

### 621.9(D)(3) Claim Clarified by Information Provided in the Limitation of Claim Screen or Spaces 6(a) and / or 6(b) of the Paper Application

If the information provided in the New Material Included field describes both the unclaimable material and the new material that the **applicant** intends to register, and if the Material Excluded field has been left blank (or vice versa), the **registration specialist** may move the information to the correct field and register the **claim** without communicating with the applicant. The registration specialist may follow the same approach if the applicant failed to complete space 6(b) and if the information provided in space 6(a) of the paper application describes both the unclaimable material and the new material that the applicant intends to register (or vice versa).

*Examples:*

- An online application is submitted for a musical work. In the Material Excluded/Other field and in the New Material Included/Other field the applicant states “new lyrics added to previously **published** words and music.” The application may be accepted, even though the Material Excluded field should

have described only the “previously published words and music” and the New Material Included field should have described only the “new lyrics.”

- A paper application is submitted for a doctoral thesis. The statement in space 6(a) reads “revised chapter 4; prepared new chapter 5 based on previously registered manuscript.” The application may be accepted, even though the new material should have been listed in space 6(b) rather than space 6(a). In this case, the specialist may move the statement to space 6(b) and register the claim.

#### 621.9(D)(4) Claim Clarified by Information Provided in Space 5 of the Paper Application

If the **applicant** fails to complete spaces 6(a) and/or 6(b) in a paper application, the **registration specialist** may register the **claim** without communicating with the applicant, if the applicant has completed space 5. (This portion of the application poses the following question to the applicant: “Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?”) Specifically if the applicant checked box “c” in space 5, the specialist may register the claim without communicating with the applicant, provided that the work appears to be “a changed version of the work.”

#### 621.9(D)(5) Claim Clarified by Information Provided in the Deposit Copy(ies)

If the **applicant** fails to complete the New Material Included and/or Material Excluded fields in an online application or fails to complete spaces 6(a) and/or 6(b) on a paper application, the application may be accepted if the scope of the **claim** is clearly defined by the **deposit copy(ies)**. If so, the **registration specialist** may register the claim without communicating with the applicant, or may add an **annotation** to clarify the scope of the claim, if appropriate.

##### *Examples:*

- An online application is submitted for a musical work. In the Author Created field the applicant asserts a claim in “music” and “lyrics.” The work contains some new lyrics and some text taken from the King James Bible, but the Limitation of Claim screen is blank. Because the Biblical text is clearly in the **public domain**, the registration specialist may register the claim with an annotation, such as: “Regarding material excluded: copy contains some Biblical text.”
- An online application is submitted for an anthology of short stories by the same author. In the Author Created field the applicant asserts a claim in “text.” The deposit copy states that two of the stories were previously **published** in the *New Yorker*, but the Limitation of Claim screen is blank. The registration specialist may register the claim with an annotation, such as: “Regarding material excluded: statement on deposit copy indicates some text previously published.”
- An online application is submitted for a travel guide. In the Author Created field, the applicant asserts a claim in “photographs” and “text.” The captions for two of the photographs state “photo by Susan Trainer, used with permission,” but the Limitation of Claim screen is blank. The registration specialist

may register the claim with an annotation, such as: “Regarding material excluded: statement on copy indicates some photographs used with permission.”

#### **621.9(E) Uncopyrightable Material Claimed in the New Material Included Field or Space 6(b)**

The authorship that is claimed in the New Material Included field or space 6(b) must be **copyrightable**. If the **applicant** asserts a **claim** in uncopyrightable material, the U.S. Copyright Office may ask for permission to remove that element from the application, or in appropriate cases, may add an annotation to clarify that the registration does not cover that element. If the claim appears to be limited to the uncopyrightable material, the Office will refuse to register the claim.

#### **621.9(E)(1) Deposit Copy(ies) Contain Copyrightable Authorship and Uncopyrightable Material**

If the **deposit copy(ies)** contain **copyrightable** material as well as uncopyrightable material, the **registration specialist** may register the **claim** without communicating with the **applicant**, provided that the applicant does not claim the uncopyrightable material in the New Material Included field or in space 6(b).

*Example:*

- An application is submitted for a revised version of a user’s manual. In the New Material Included field the applicant states “new text.” The deposit copies contain text, geometric symbols, and some sections highlighted in color. The registration specialist will register the claim because the applicant only asserted a claim in the copyrightable new text, and did not assert a claim in the uncopyrightable geometric shapes and highlighting.

#### **621.9(E)(2) Claim in Copyrightable Authorship and Uncopyrightable Material**

If the New Material Included field or space 6(b) of the application asserts a **claim** in **copyrightable** material and material that is uncopyrightable under the Copyright Act, **Section 202.1** of the regulations, or this *Compendium*, the **registration specialist** may communicate with the **applicant**. In the alternative, the specialist may register the claim with an **annotation** indicating that the registration does not cover the uncopyrightable material. The annotation is intended to put the applicant, the **claimant**, the courts, and the general public on notice concerning the extent of the claim to copyright.

*Example:*

- An application is submitted for a new version of a banner advertisement. The applicant states “artwork, slogan, typeface” in the New Material Included field. If the work contains a sufficient amount of pictorial or graphic authorship to support a claim in artwork, the registration specialist may register the claim with an annotation, such as: “Regarding new material included: slogan, typeface, typographic ornamentation not copyrightable. **37 C.F.R. § 202.1.**”

**621.9(E)(3) Claim in Uncopyrightable Material: Deposit Copy(ies) Contain Copyrightable Authorship**

If the **applicant** only asserts a **claim** in material that is uncopyrightable, the **registration specialist** may communicate with the applicant.

**621.9(E)(4) Claim in Uncopyrightable Material: Acceptable Authorship Statement Used to Describe Uncopyrightable Material**

If the **applicant** uses a term in the New Material Included field or space 6(b) of the application that normally would be used to describe **copyrightable** authorship, such as “artwork” or “text,” and if it appears that the applicant is using that term to describe material that is uncopyrightable, the specialist may communicate or may register the **claim** with an **annotation** indicating that the registration does not cover the uncopyrightable material.

**621.9(E)(5) Claim in Uncopyrightable Material: Works Created by Two or More Authors**

If two or more authors are named in the application, and if it appears that one or more of the authors did not contribute **copyrightable** authorship to the work, the specialist will ask for permission to remove the noncontributing author’s information from the registration record.

**621.9(E)(6) Claim in Uncopyrightable Material: Registration Refused**

If the **applicant** asserts a **claim** in material that is uncopyrightable under the Copyright Act, **Section 202.1**, or this *Compendium*, and if the claim appears to be limited to that material, the specialist will refuse registration.

**621.9(F) De Minimis Material Claimed in the New Material Included Field or Space 6(b)**

The material described in the New Material Included field or in space 6(b) must be **copyrightable**. If an element claimed in that field/space is *de minimis*, the U.S. Copyright Office may ask for permission to remove that element from the application. If the claim appears to be limited to that element, the Office will refuse to register the **claim**.

**621.9(F)(1) Deposit Copy(ies) Contain Copyrightable Authorship and De Minimis Material**

If the **deposit copy(ies)** contain **copyrightable** material and *de minimis* material, the registration specialist may register the **claim** without communicating with the **applicant**, provided that the applicant does not claim the *de minimis* material in the New Material Included field or in space 6(b).

**621.9(F)(2) Claim in Copyrightable Authorship and De Minimis Material**

If the **applicant** asserts a **claim** in **copyrightable** material and *de minimis* material, the **registration specialist** generally will ask the applicant for permission to remove the claim in the *de minimis* material. In some cases, the specialist may register the claim with an **annotation** iden-



tifying the copyrightable material that has been submitted for registration and stating that the registration does not cover the *de minimis* material claimed in the application.

#### 621.9(F)(3) Claim in *De Minimis* Material: Works Created by Two or More Authors

If two or more authors are named in the application, and if it appears that one of the authors contributed only a *de minimis* amount of authorship, the specialist will communicate with the **applicant**. If the applicant confirms that the author did not make a **copyrightable** contribution to the work, the specialist will ask for permission to remove that author's name from the registration record.

#### 621.9(F)(4) Claim in *De Minimis* Authorship: Registration Refused

If the **registration specialist** determines that the author's contribution is *de minimis*, and if there appears to be no other basis for asserting a valid **claim** in the work, the specialist will refuse registration.

#### 621.9(G) Discrepancies Between the Limitation of Claim Fields and the Deposit Copy(ies)

If the **applicant** completes the Material Excluded field or space 6(b), but the **deposit copy(ies)** do not appear to contain any unclaimable material, the **registration specialist** may annotate the record to clarify the content of the deposit copy(ies).

*Example:*

- A paper application is submitted for an **unpublished** work consisting solely of words. In space 6(b) the applicant explains that the author "added words." In space 6(a) the applicant disclaims "previously published music." The registration specialist may register the work with an **annotation**, such as: "Regarding limitation of claim: copy only contains words."

If the **applicant** completes the New Material Included field or space 6(a), but the authorship described in that portion of the application does not appear in the **deposit copy(ies)**, the specialist will communicate with the applicant.

*Example:*

- Walter Bridge submits an online application to register one of his photographs. In the New Material Included and Material Excluded fields he checks the boxes marked "2-D Artwork," "Photograph," "Jewelry design," "Architectural work," "Sculpture," "Technical Drawing," and "Map." The registration specialist will communicate with the applicant to request permission to limit the claim to "photograph" and to remove the other terms from the registration record.



## 621.9(H) Discrepancies Involving the Copyright Notice

### 621.9(H)(1) Published Works

The presence of multiple year dates in the **copyright notice** for a **published** work (e.g., © Mountain View Software 2004, 2005, 2006) may indicate that portions of the work have been previously published or previously registered. Likewise, a copyright notice that precedes the date of **publication** for a published work by two or more years (e.g., Rise and Shine, published January 2008, © Sunny Day Inc. 2005) may indicate that the work contains previously published or previously registered material. In this situation, the **registration specialist** may question an application if the **applicant** fails to complete the Limitation of Claim screen in an online application or spaces 5, 6(a), and/or 6(b) in a paper application.

### 621.9(H)(2) Unpublished Works

The presence of an earlier date or multiple dates in the **copyright notice** for an **unpublished** work does not necessarily mean that the work contains unclaimable material. However, if the date clearly refers to previously **published** material or previously registered material, the **registration specialist** will communicate with the **applicant** if the applicant failed to complete the Limitation of Claim screen or spaces 5, 6(a), and/or 6(b) of the paper application.

## 621.9(I) Discrepancies Involving the Registration Number or Year of Registration in a Paper Application

If the **applicant** checks the “yes” box on space 5 of a paper application without providing a registration number and/or year of registration, or with a statement such as “unknown” or “I don’t know,” the **registration specialist** may either communicate with the applicant, or may attempt to locate the previous registration information in the U.S. Copyright Office’s records. In conducting such a search, the specialist will only look for works that have been registered under the exact same author and title as the work described in the application.

If there is no record of a previous registration under the same author and title, the specialist may register the claim with an **annotation**, such as: “Regarding previous registration: Copyright Office records show no previous registration under this title.”

If the work described in the application has been **published**, and if the specialist finds another work registered under the exact same author and title, he or she may add the previous registration number and year to the registration record. If the previous registration is for an **unpublished** version of the work described in the application, the specialist may explain that the Office is issuing a new registration for the first published edition of this work by adding an annotation, such as: “Regarding previous registration: registration number added from C.O. records. Registered as first published edition.” If the previous registration is for a previously published version of the work described in the application, the specialist will communicate with the applicant to determine whether there is a basis for issuing a new registration.

In some cases, the applicant may check box (a) in space 5, indicating that “this is the first published edition of a work previously registered in unpublished form” without providing a date of publication for the work that has been submitted for registration and without providing a

previous registration number or year of registration. If the work appears to be unpublished, and if there is no record of a previous registration under the same title, the registration specialist may add an annotation, such as: “Regarding previous registration: application states that this is the first published edition of a work previously registered in unpublished form, but no publication date or previous registration number given. Registered as unpublished.”

#### 621.9(J) Reference to Previous Registration Clearly Erroneous

Where the **applicant** provides a number in the Previous Registration field/space, but the number is clearly erroneous or does not relate to a registration issued by the U.S. Copyright Office, the **registration specialist** may annotate the registration record and register the **claim** without communicating with the applicant. If the applicant provides an erroneous number and checks the “yes” box on space 5 of a paper application, the specialist may ask the applicant for permission to remove that number from the registration record and to change the answer on space 5 from “yes” to “no.”

##### *Examples:*

- Lois Lanier submits an application for a product logo. In the Previous Registration field, the applicant provides a U.S. trademark registration number. The specialist will add an **annotation** to the registration record, such as: “Regarding previous registration: applicant gives RN 1234567, which is not a Copyright Office registration number.”
- Joshua Steinberg submits an online application for a screenplay. In the Note to Copyright Office field the applicant states “that work has been registered with the Screenwriters Guild.” Because this statement is considered superfluous, the registration specialist will register the claim without communicating with the applicant.
- Saskatoon Scriveners submits a paper application to register an anthology of short stories by a Canadian author. The applicant checks the “yes” box on space 5 of the application indicating that the work has been previously registered. In a cover letter, the applicant explains that the work has been registered in Canada and a copy of the Canadian registration is included with the application. The registration specialist will ask for permission to remove the reference to the Canadian registration by changing the answer on space 5 of the application from “yes” to “no.”

#### 621.9(K) Reference to a Preregistration in the Previous Registration Field/Space

If the **applicant** provides a **preregistration** number in the Previous Registration field in the online application, the **registration specialist** will move that information to the correct portion of the registration record.

If the applicant provides a preregistration number on a paper application, the specialist will move that information to the correct portion of the record. If the applicant checks the “yes” box that appears in space 5, the specialist will register the work with an **annotation**, such as: “Regarding previous registration: information refers to preregistration under 17 U.S.C. § 408(f), not full registration under 17 U.S.C. § 408(a).”

## 622 Rights and Permissions Information / Correspondent / Mail Certificate

### 622.1 Rights and Permissions Information

The **applicant** may provide the name, address, and other contact information for the person and/or organization that should be contacted for permission to use the work. Providing this information is optional and an application will be accepted even if this portion of the application is left blank.

The applicant may provide rights and permissions information in an online application on the Rights and Permissions Information screen. Currently, there is no space for this information on the paper applications.

The applicant may provide as much or as little information as the applicant prefers. For example, the applicant may provide the name of the person and/or organization who may be contacted for permission to use the work, along with the street address, telephone number, fax number, and email address (if any) for that person or organization. If the applicant prefers not to provide personally identifiable information, the applicant may provide the name and address for a third party agent or a post office box number in lieu of a street address.

If the applicant provides rights and permissions information on the application, that information will appear on the **certificate of registration**, which will be made available to the public upon request. In addition, rights and permissions information will appear in the **online public record** for the work, which can be accessed by anyone who performs a search for the work on the U.S. Copyright Office's website.

Once a certificate of registration has been issued, the author, claimant, or their authorized representative may ask the Office to remove or replace this information in the online public record (but not the offline public record). To do so, the requesting party must submit a written request in the form of an affidavit, and must pay the appropriate fee for this service. For more information on this procedure, see **Chapter 1800**, Section 1805.

For a general discussion of privacy concerns, see **Chapter 200**, Section 205.

### 622.2 Correspondent

The **applicant** must provide the name, address, and other contact information for the person or persons who should be contacted if the **registration specialist** has questions or concerns regarding the application. This person is known as the correspondent.

As a general rule, the U.S. Copyright Office will direct all communications concerning an application or a registration to the correspondent at the email address, phone number, or mailing address provided in the registration record.

When completing an online application, the applicant should provide this information on the Correspondent screen; when completing a paper application, the applicant should provide this information on space 7(b) of the application under the heading Correspondence. Specifically, the applicant should provide the correspondent's first and last name, along with the street address (or P.O. Box) and email address where that person may be contacted. If the applicant fails to pro-

vide this information in an online application, the application will not be accepted by the Office's electronic registration system. In addition, the applicant is strongly encouraged to provide the area code, daytime telephone number, and fax number (if any) for the correspondent, as well as the name of the organization (if any) where the correspondent may be reached.

When a duly **authorized agent** or other third party submits an application on behalf of the author, the **claimant**, and/or an owner of one or more of the **exclusive rights** in the work, the third party should provide his or her name, address, and contact information in the Correspondent field/space.

The name and address provided in the application will not appear in the online public record, but it will appear on the certificate of registration and the offline registration record. The Office will not remove this information from the offline registration record once a registration has been issued, and may make this information available to the public upon request. *See generally Removal of Personally Identifiable Information From Registration Records, 82 Fed. Reg. 9004 (Feb. 2, 2017).*

For a general discussion of privacy issues, see **Chapter 200**, Section 205.

### 622.3 Applicant's Internal Tracking Number

The **applicant** may assign an internal tracking number to an online application by completing the field marked Applicant's Internal Tracking Number on the Certification screen.

Providing a tracking number is optional and this feature is intended solely for the applicant's convenience. The U.S. Copyright Office does not use these numbers to keep track of pending applications, although the number will appear on the **certificate of registration**.

### 622.4 Mailing Address for the Certificate of Registration

The **applicant** should provide the first and last name of the person and/or the name of the organization to whom the **certificate of registration** should be sent, along with the street address (or P.O. Box), city, state, and zip code for that person and/or organization.

When completing an online application, the applicant should provide this information on the Mail Certificate screen. If the applicant fails to provide this information, the application will not be accepted by the electronic registration system.

When completing a paper application, the applicant should provide this information in space 9 of the application under the heading "Certificate Will be Mailed in Window Envelope to This Address." Space 9 should be completed legibly; failure to provide a legible name and address may delay the delivery of the certificate of registration.

The applicant should provide only one mailing address in the application. The Office will send a single copy of the certificate of registration to that address by first class mail. Additional copies of the certificate of registration may be obtained from the Office for an additional fee. For instructions on how to request additional copies of a certificate of registration, see **Chapter 2400**, Section 2408.

The name and mailing address provided in the application will not appear in the online public record, but it will appear on the certificate of registration and the offline registration record. The Office will not remove this information from the offline registration record once a registration has been issued, and may make this information available to the public upon request. *See generally* **Removal of Personally Identifiable Information From Registration Records**, 82 Fed. Reg. 9004 (Feb. 2, 2017).

For a general discussion of privacy issues, see **Chapter 200**, Section 205.

## 623 Special Handling

This Section discusses the U.S. Copyright Office's practices and procedures for **special handling**.

### 623.1 What Is Special Handling?

Special handling is a procedure for expediting the examination of an application to register a **claim** to copyright or the recordation of a document pertaining to copyright. The U.S. Copyright Office offers this service in certain circumstances where a copyright owner or other interested parties have a compelling reason for the expedited issuance of a **certificate of registration** or a certificate of recordation, as described in Section 623.2. The Office charges an additional fee for this service, which is discussed in Section 623.6.

The copyright law provides that a work of authorship is protected by copyright from the moment it is **fixed** in a tangible medium of expression and that a registration or recordation is not a prerequisite for such protection. 17 U.S.C. §§ 102(a), 408(a). However, registration is required in order to institute a lawsuit for the **infringement** of a U.S. work, and recordation is required in order to obtain the benefit of certain statutory provisions and presumptions. *See* 17 U.S.C. §§ 203(a)(4)(A), 205(c), 304(c)(4)(A), 411(a), 412.

The Office recognizes that a delay in the issuance of a certificate may create difficulties for the copyright owner or other interested parties, particularly when litigation is expected. Therefore, the Office has established a procedure for processing applications and recording documents on an expedited basis for an additional fee. The procedure for requesting special handling is discussed in Section 623.5.

*See generally* **Fees for Special Handling of Registration Claims**, 74 Fed. Reg. 39,900 (Aug. 10, 2009); **Policy Decision: Revised Special Handling Procedures**, 56 Fed. Reg. 37,528 (Aug. 7, 1991); **Policy Decision Fixing Fees for the Special Handling of Import Statements and Documents**, 50 Fed. Reg. 46,206 (Nov. 6, 1985); **Policy Decision Announcing Fee for Special Handling of Applications for Copyright Registration**, 47 Fed. Reg. 19,254 (May 4, 1982).

### 623.2 Justification for Special Handling

The U.S. Copyright Office will grant a request for special handling in the following situations:

- Pending or prospective litigation.
- Customs matters.

- Contract or publishing deadlines that necessitate the expedited issuance of a certificate.

The Office may refuse to grant special handling if the request is not sufficiently justified, or if the Office is unable to process the request based on the Office's workload or budget at the time the request is made. The Office will not grant any request for special handling in connection with a request for reconsideration of a refusal to register.

*Examples:*

- Timothy King discovers that a website **published** his photograph of the Dalai Lama without his permission. He intends to send a cease and desist letter to the website demanding that the photo be removed from the site. Before sending the letter, Timothy submits an application to register his work and asks the Office to process the application on an expedited basis due to pending or prospective litigation. The request for special handling will be granted.
- The Pomegranate Company submits an application to register a **motion picture** and asks the Office to process the application on an expedited basis. In the Note to Copyright Office field the **applicant** explains that it intends to record its registration with the U.S. Customs and Border Protection Service to prevent infringing copies from being imported into the United States. The request for special handling will be granted.
- I.P. Asset Advisors intends to make a loan to a songwriter. The company intends to take a security interest in the songwriter's works as collateral for the loan. The loan agreement stipulates that the security interest must be recorded with the Office on or before the date that the deal closes. The company submits a copy of the loan agreement and asks the Office to record the document on an expedited basis. The request for special handling will be granted.

See **Fees for Special Handling of Registration Claims**, 74 Fed. Reg. at 39,900-01; **Policy Decision: Revised Special Handling Procedures**, 56 Fed. Reg. at 37,528; **Policy Decision Fixing Fees for the Special Handling of Import Statements and Documents**, 50 Fed. Reg. at 46,206.

### 623.3 Examination Guidelines: Special Handling

The U.S. Copyright Office will apply the same practices and procedures when examining a **claim** to copyright or a document pertaining to copyright, regardless of whether the **applicant** asks for special handling.

### 623.4 Timeline for Special Handling Requests

Once a request for special handling has been received, the U.S. Copyright Office will determine if the applicant paid the correct fee and provided a compelling justification for the request, as discussed in Section 623.2. If the applicant failed to pay the correct fee, failed to provide a compelling justification, or if the Office determines that special handling would be unduly burdensome, the Office will notify the applicant that the request has been denied and that the claim will be examined on a regular basis.

If the request for special handling is granted, the Office will make every attempt to examine the application or the document within five working days thereafter, although the Office cannot guarantee that all applications or all documents will be registered or recorded within that timeframe.

As a general rule, the Office will issue a **certificate of registration** or a certificate of recordation within five working days after the request for special handling has been granted, if it is clear that the material deposited constitutes **copyrightable** subject matter and that the other legal and formal requirements of U.S. copyright law have been met.

If there are questions or issues that prevent the Office from registering the work or recording the document, the Office generally will notify the party that submitted the application or document within five working days after the request for special handling has been granted. If the **applicant** responds to this communication, the Office will provide its response to the applicant's communication(s) within a reasonable amount of time.

If it is clear that the requirements of the law have not been met, the Office will refuse to register the **claim** or will refuse to record the document. A refusal will be made in a written communication that will be sent to the party that submitted the application or document. However, the Office cannot guarantee that a decision will be made or that the refusal will be issued within the timeframe specified above.

### 623.5 Procedure for Requesting Special Handling

Special handling for an application to register a work may be requested online, in person, by courier, or by mail. Special handling for document recordations may be requested only in person, by courier, or by mail. The procedures for each type of request are discussed in Sections **623.5(A)** through **623.5(D)**.

The request may be made when the application or document is submitted to the U.S. Copyright Office or any time before the Office issues a certificate of registration or a certificate of recordation. In all cases, the Office will retain a copy of the request in the registration record or the recordation record.

When requesting special handling for a claim to copyright, the Office strongly encourages **applicants** to complete an online application and upload an electronic copy of the work if the work is eligible for submission in an electronic format. When submitting the **deposit** in a hard copy format, the Office strongly encourages applicants to deliver the **deposit copy(ies)** in person to ensure they are received in a timely manner and to minimize the risk of damage. For guidance in determining whether a work is eligible for submission in electronic format, see **Chapter 1500**, Section 1507.2. For information concerning the procedures for delivering deposit copy(ies) in person, see **Chapter 1500**, Section 1508.5.

If the Office subsequently registers the work, the registration specialist may add an annotation to the certificate of registration and the online public record indicating that the work was registered on an expedited basis. But the specialist will add this annotation only in cases where the request for special handling was submitted after the application, deposit copy(ies), and filing fee were received. For information concerning this procedure, see Section **623.5(D)**.



By contrast, when the Office records a document on an expedited basis, the recordation specialist will not add an annotation to the certificate or the online public record for that document.

### 623.5(A) Online Requests for an Expedited Certificate of Registration

When submitting an application using the electronic registration system, the **applicant** may request special handling by completing the fields that appear on the Special Handling screen. The applicant should check the box marked Special Handling and provide a justification for the applicant's request by checking one or more of the boxes that appear under the heading Compelling Reason(s) (*i.e.*, pending or prospective litigation; customs matters; contract or publishing deadlines).

The request for special handling must be certified by an author of the work, the **claimant** named in the application, an owner of one or more of the **exclusive rights** in the work, or a duly **authorized agent** of one of the aforementioned parties. The certifying party should check the box that reads, "I certify that I am the author, copyright claimant of exclusive rights, or the authorized agent of the author, copyright claimant of exclusive rights of this work." By checking this box, the certifying party confirms that the information provided in the request for special handling is correct to the best of his or her knowledge. There is no need to date the certification; the date will be added automatically when the application is received by the U.S. Copyright Office.

Additional comments or instructions that may be relevant to the request for special handling may be provided in the field marked Explanation for Special Handling, such as the applicant's preference for the delivery of the **certificate of registration**.

### 623.5(B) In Person Requests

To request special handling in person, the requesting party should prepare a letter explaining why there is a compelling need for the expedited issuance of a **certificate of registration** or a certificate of recordation. The letter must include one or more of the justifications listed in Section 623.2 (*i.e.*, pending or prospective litigation; customs matters; contract or publishing deadlines). In addition, the party making the request must provide a signed statement certifying that the information contained in the letter is correct to the best of his or her knowledge.

The letter should be clearly labeled "Special Handling" and should be delivered to the Public Information Office together with the following items:

*Special handling for copyright registration:*

- An appropriate application to register the **claim** to copyright.
- The appropriate **deposit copy(ies)**, **phonorecords**, or **identifying material** for the claim to copyright.
- The appropriate **filing fee** or **deposit account** number.
- The special handling fee or deposit account number.

*Special handling for copyright recordation:*



- The **transfer** or other document pertaining to copyright that is being submitted for recordation.
- The appropriate document recordation fee or deposit account number.
- The special handling fee or deposit account number.

The Public Information Office is located in Room LM-401 of the James Madison Memorial Building of the Library of Congress, 101 Independence Avenue SE, Washington, DC 20559, and is open Monday through Friday from 8:30 a.m. to 5:00 p.m. Eastern Time (except for federal holidays). Please be advised that visitors to the U.S. Copyright Office must pass through security before entering the building, and that sealed packages or packages that are more than twenty-four inches wide by fifteen inches high are not permitted.

For more information on visiting the Office, see **Chapter 200**, Section 204.1(B)(3).

### 623.5(C) Requests Delivered by Courier or by Mail

Although it is strongly discouraged, **applicants** may submit a request for special handling by mail, or if the package exceeds certain measurements, by courier.

To submit a request for special handling by U.S. mail or by private courier, the party making the request should prepare a letter containing the information set forth in Section **623.5(B)**. The letter should be sent to the U.S. Copyright Office together with the items listed in Section **623.5(B)** in an envelope or package that is clearly labeled “Special Handling.”

Items delivered by private courier should be sent to the Congressional Courier Acceptance Site, which is located at 2nd and D Streets NE, Washington, DC. This location is open Monday through Friday from 8:30 a.m. to 4:30 p.m. Eastern Time (except for federal holidays). Items delivered to this location are typically sent to the Office the next working day.

Items delivered by U.S. mail should be sent to the following address:

Special Handling  
Copyright RAC Division  
P.O. Box 71380  
Washington, DC 20024-1380

A package containing a request for special handling must not exceed twelve inches by eighteen inches by four inches in size. Packages exceeding these dimensions should be delivered in person to the Public Information Office using the procedure described in Section **623.5(B)** or should be sent by U.S. mail to the following address:

Special Handling  
Department 100  
Washington, DC 20540

**IMPORTANT NOTE:** Packages delivered by private courier can only be delivered to the Congressional Courier Acceptance Site. If a package is delivered to one of the mailing addresses listed above by a private courier, it will be rerouted to another location and may not be delivered to the Office for up to three months.

### 623.5(D) Procedure for Requesting Special Handling for a Pending Application or a Pending Recordation

A request for special handling may be made at any time before the U.S. Copyright Office issues a certificate of registration or certificate of recordation. If an application or a document recordation request is already pending, the **applicant** or **remitter** may ask the U.S. Copyright Office to process the application or document on an expedited basis, provided that the requesting party pays the special handling fee and provided that there is a compelling reason for the request.

To request special handling for a pending application or a pending recordation request, the applicant or remitter should prepare a letter containing the information set forth in Section **623.5(B)**.

To facilitate the location of the application that is the subject of the request, the letter should provide the following information:

- The service request number/case number for the work, if known.
- The exact title of the work as it appears in the application.
- The name(s) of the author(s) and **claimant(s)** named in the application.
- A description of the **deposit copy(ies)**, **phonorecords**, or **identifying material** that were submitted to the Office.
- The date that the application and copy(ies) were submitted to the Office.
- The means by which the application and copy(ies) were submitted to the Office (*e.g.*, by electronic submission, by first class mail, by registered mail, by certified mail, by private courier, or by hand delivery).

To facilitate the location of the document that is the subject of the request, the letter should provide the following information:

- The title of the first work listed in the document.
- The date the document was submitted to the Office.
- The means by which the document was submitted to the Office (*e.g.*, by first class mail, by registered mail, by certified mail, by private courier, or by hand delivery).
- The amount of the recordation fee that was submitted to the Office and the type of payment (*e.g.*, by deposit account, by check, by credit card, etc.).
- The name of the person or entity who paid the recordation fee.

The letter should be sent to the Office in an envelope that is clearly labeled “Special Handling” together with the special handling fee and, if possible, with a photocopy of the application or a photocopy of the document. The envelope may be delivered in person to the Public Information Office using the procedure described in Section **623.5(B)**, or it may be delivered by U.S. mail or by private courier using the procedure described in Section **623.5(C)**.

In some cases, the applicant may be required to pay a search fee if the application or document cannot be located immediately. The fee for this service is set forth in the [fee schedule](#) on the Office's website in the field marked "Retrievals and Copies of Records."

### 623.6 Special Handling Fee

To expedite a registration or recordation, the [applicant](#) or remitter must pay a special handling fee in addition to the [filing fee](#) for the application or the recordation fee for the document. These fees are set forth in the [fee schedule](#) on the Office's website in the field marked "Special Handling for Registration of Qualified Copyright Claims" and "Special handling of recordation of documents." The special handling fee must be paid for each application and for each document for which expedited service is requested and granted.

Once a request for special handling has been granted, the special handling fee is not refundable, regardless of whether the Office issues a certificate of registration or a certificate of recordation.

If the applicant requests special handling through the electronic registration system, the special handling fee may be paid with a credit card, a debit card, or an electronic transfer from a checking account, savings account, or a [deposit account](#).

If the request is made in person at the Public Information Office, the special handling fee may be paid in cash, by credit card, by check, or it may be charged to a deposit account.

If the request is delivered by mail or by private courier, the special handling fee may be paid by check or it may be charged to a deposit account.

Checks must be made payable to the [U.S. Copyright Office](#), they must be payable in U.S. dollars, they must be imprinted with an American Banking Association routing number, and they must be redeemable through a U.S. institution without a service charge or exchange fee. International money orders and foreign postal money orders that are negotiable only at a post office will not be accepted.

If the Office issues a certificate of registration or a certificate of recordation, and if the payment for the special handling fee is returned or invalidated, the registration or recordation will be cancelled.

See [Policy Decision: Revised Special Handling Procedures](#), 56 Fed. Reg. at 37,528; [Policy Decision Announcing Fee for Special Handling of Applications for Copyright Registration](#), 47 Fed. Reg. at 19,254.

### 623.7 Special Handling for Multiple Applications That Share the Same Deposit Copy

On occasion, an [applicant](#) will submit multiple applications together with a single [deposit copy](#), and will ask the U.S. Copyright Office to process some — but less than all — of those applications on an expedited basis. In such cases, the Office will expedite the examination of the applications for which special handling has been requested, but will not expedite the examination of the other applications. The applicant must pay an additional fee, which will be added to the [filing fee](#) for each application and the special handling fee. The fee for this service is set forth in the [fee schedule](#) on the Office's website on the line marked "Handling fee for each non-special-handling claim using the same deposit."

Before processing each application the Office will ask the applicant to submit the additional fee (if it has not been paid). If the applicant prefers to avoid the additional fee, the applicant may submit a separate deposit copy for the applications that do not require special handling.

*Example:*

- Grantham Records intends to register a compact disc containing seven tracks. The company submits seven applications on **Form PA** for each song on the CD, one application on **Form SR** for the **sound recording**, and one application on **Form VA** for the artwork that appears on the cover of the CD. The company submits a single CD as the deposit copy for all of its applications. Grantham asks the Office to process the application for the first song on an expedited basis, because the company intends to file a lawsuit against a website that is streaming the song without permission. Grantham submits the filing fee for each application and the special handling fee for the application to register the first song. Because Grantham submitted a single CD as the deposit copy for all of its applications, the Office will ask the company to pay an additional fee for using the same deposit copy for the claims that do not require special handling. If Grantham does not wish to pay the additional fee, the company should submit a separate CD as the deposit copy for the applications that do not require expedited service.

See **Policy Decision: Revised Special Handling Procedures**, 56 Fed. Reg. at 37,528; **Policy Decision Announcing an Increase in the Fee for Special Handling of Applications for Copyright Registration**, 49 Fed. Reg. 39,741 (Oct. 10, 1984).

## 624 Certification

This Section discusses the procedures for certifying a copyright application and the practices regarding the examination of the Certification field/space.

### 624.1 The Significance of the Certification

The person who signs a copyright application certifies that the information provided therein is correct to the best of his or her knowledge. **37 C.F.R. § 202.3(c)(2)(iii)**. Knowingly making a false representation of a material fact in an application for copyright registration, or in any written statement filed in connection with the application, is a crime that is punishable under **17 U.S.C. § 506(e)**.

### 624.2 Who May Certify the Application?

The **applicant** is the party who certifies the certification and submits the application to the U.S. Copyright Office. An application to register a **claim** to copyright may be certified by any of the following parties:

- The author of the work.
- A person or organization that has obtained all of the rights under copyright from the author.

- An owner of one or more — but less than all — of the **exclusive rights** in the work.
- A duly **authorized agent** of any of the foregoing parties.

No other person or entity is entitled to certify a copyright application. **37 C.F.R. § 202.3(c)(2)(i)**.

#### **624.2(A) Application Certified by the Author or the Author's Duly Authorized Agent**

If the author owns all of the rights under the copyright on the date that the application is submitted, the author should be named in the application as the **copyright claimant**. In this situation, the application should be certified by the author or the author's duly **authorized agent**.

For further discussion of this issue, see Section **619.6** and **Chapter 400**, Section 405.

#### **624.2(B) Application Certified by a Party That Owns All the Rights under Copyright That Initially Belonged to the Author or That Party's Duly Authorized Agent**

If a party owns all the rights under copyright that initially belonged to the author and if the work has not been registered before, that party may be named in the application as the **copyright claimant**. In this situation, the application should be certified by that party or that party's duly **authorized agent**.

In the alternative, the author may be named as the copyright claimant and the application may be certified by the author or the author's duly authorized agent, even if the author has transferred all of the rights to another party, and even if the author does not own any of the rights at the time the application is filed.

For further discussion of this issue, see Sections **619.7** and **619.8**, and **Chapter 400**, Sections 405 and 406.

#### **624.2(C) Application Certified by an Owner of One or More — but Less than All — of the Exclusive Rights or That Party's Duly Authorized Agent**

If the author has assigned one or more — but less than all — of the rights in the work to another party, then the author should be named as the **copyright claimant**. In this situation, the application may be certified by the author, the **transferee**, or their respective agents.

If the author assigned all of his or her rights under copyright to a third party and that transferee, in turn, assigned some — but not all — of those rights to an **exclusive licensee**, the author should be named as the copyright claimant. However, the author, the transferee, the exclusive licensee, or their respective agents may certify and submit an application to register the work with the U.S. Copyright Office.

For further discussion of this issue, see Section **619.7** and **619.9** and **Chapter 400**, Sections 405 and 407.

See **Registration of Copyright: Definition of Claimant**, 77 Fed. Reg. 29,257, 29,259 (May 17, 2012).

### 624.3 Completing the Application: Certification

#### 624.3(A) Online Applications

When completing an online application, the **applicant** will be asked to certify the application on the Certification screen. Specifically, the applicant should provide the first and last name of the individual who is certifying the application in the space marked “Name of Certifying Individual” and should check the box that reads “I certify that I am the author, **copyright claimant**, or owner of **exclusive rights**, or the **authorized agent** of the author, copyright claimant, or owner of exclusive rights of this work and that the information given in this application is correct to the best of my knowledge.” **37 C.F.R. § 202.3(c)(2)(ii)**. There is no need to date the certification in an online application; the date will be added automatically when the application is received by the U.S. Copyright Office. See **Online Registration of Claims to Copyright, 72 Fed. Reg. 36,883, 36,887 (July 6, 2007)**.

If the certification box has not been checked, or if a name is not provided in the field marked “Name of Certifying Individual,” the application will not be accepted by the electronic registration system.

For guidance concerning the Note to Copyright Office field on the Certification screen, see Section **605.2(A)**.

#### 624.3(B) Paper Applications

A paper application should be signed and dated on space 8 of the application under the heading Handwritten Signature. In addition, the first and last name of the person who certified the application should be typed or printed on the space marked Typed or Printed Name and Date. **37 C.F.R. § 202.3(c)(2)(ii)**.

If the signature is illegible the **registration specialist** will add an annotation to the registration **record**, such as: “Regarding certification: Image of signature on file in Copyright Office.”

The person who certifies the application should check one of the boxes on the application indicating whether he or she is an author of the work, the **claimant** specified in the application, an owner of one or more **exclusive rights** in the work, or a duly **authorized agent** of one of the foregoing persons. **37 C.F.R. § 202.3(c)(2)(i)**. Ordinarily, an application will be accepted if two or more of the boxes in space 8 have been checked unless there is reason to question the application.

- Checking the “author” box means that the person certifying the application is one of the authors of the work named in space 2 of the application.
- Checking the “other copyright claimant” box means that the person certifying the application is the copyright claimant named in space 4 of the application. It also means that the person certifying the application owns all the rights under the copyright that initially belonged to the author.
- Checking the “owner of exclusive rights” box means that the person certifying the application owns one or more of the exclusive rights under the copyright, such as the right to distribute the work, or the right to perform the work publicly, etc.

- Checking the “authorized agent of” box means that the person certifying the application is an authorized representative of an author named in space 2 of the application, the copyright claimant named in space 4 of the application, or a party that owns one or more of the exclusive rights in the work. If the person certifying the application is a duly authorized agent, he or she should provide the name of the person or entity that he or she represents.

If the application has not been signed, the specialist will communicate with the **applicant**, even if a handwritten signature appears in a cover letter or elsewhere in the registration materials. If the applicant or the applicant’s authorized agent confirms that the information in the application is correct, the specialist will add that party’s name to the Certification space and will provide the date of the communication as the date of certification. In addition, the specialist will add a note to the registration record indicating that there is correspondence in the file.

## 624.4 Examination Guidelines: Certification

### 624.4(A) Signature Requirements

As a general rule, the registration specialist will assume that the certification was signed by an authorized individual, unless there is evidence to the contrary in the registration materials.

When completing an online application, the individual who certifies the application should provide his or her first and last name. When completing a paper application, the individual who certifies the application should provide a handwritten signature containing his or her first and last name. The U.S. Copyright Office will accept a photocopy of a handwritten signature, but a stamped signature or a signature provided on a preprinted label is not acceptable. Likewise, the Office will not accept a signature consisting solely of initials or a monogram.

If the work described in the application is a **pseudonymous** work, the author may sign the application using his or her pseudonym, provided that the name is clearly identified as a pseudonym in the registration materials. For a detailed discussion of pseudonymous works, see Section **615.2**.

The application must be certified by an individual. A certification that merely recites the name of a business, company, partnership, or other legal entity is unacceptable. The registration specialist will accept a certification that includes the name of the individual who certified the application, along with the name of that person’s employer or the business or organization that he or she represents.

#### *Examples:*

- An online application is submitted for a product catalog naming Viscous Liquids, LLC as the author and **copyright claimant**. The certification reads, “Mark Arnett, for Viscous Liquids, LLC.” The **claim** will be registered.
- An online application is submitted for a technical drawing naming Nobel Gas, Inc. as the author and copyright claimant. The certification reads “Executive Vice President and General Counsel.” The registration specialist will ask the **applicant** to provide the first and last name of the person who certified the application. The specialist will add this name to the registration record, and will add a note indicating that there is correspondence in the file.

- An online application is submitted for a prospectus naming Precious Metals Corporation as the author and copyright claimant. The certification reads “Precious Metals.” The registration specialist will communicate with the applicant and explain that the application must be certified by an individual and that the applicant should provide the first and last name of the certifying individual. The specialist will add this name to the registration record, and will add a note indicating that there is correspondence in the file.
- Camry Royce submits an online application to register a toy car. In the Certification field, the applicant signs the application “C.R.” The registration specialist will communicate with the applicant to request the full name of the individual who certified the application. The specialist will add this name to the registration record, and will add a note indicating that there is correspondence in the file.

#### 624.4(B) Date of Certification in a Paper Application

When completing a paper application, the **applicant** should specify the month, day, and year that the application was certified. **37 C.F.R. § 202.3(c)(2)(iv)**. The date of the certification may be the same as the date that the application is received in the U.S. Copyright Office, but it cannot be later than the date of receipt or earlier than the date of **publication** specified in the application. If the date specified in the Certification space is later than the date that the application was received, the **registration specialist** will communicate with the applicant. Likewise, if the date of publication specified in space 3(b) of the application is later than the date of the certification, the specialist will communicate with the applicant to confirm that the date of publication is correct. **37 C.F.R. § 202.3(c)(2)(iv)**.

##### *Examples:*

- Kitt Robbins submits a paper application that is received by the Copyright Office on September 1, 2012. The certification is dated October 2, 2012. The registration specialist communicates with the applicant by phone on March 15, 2013. If the applicant confirms that the information set forth in the application is correct, the specialist will register the **claim** with an **effective date of registration** of September 1, 2012. In addition, the specialist will add a note to the registration record indicating that there is correspondence in the file.
- Jason Johns signs his application on August 25, 2012 and mails it to the Office. The application is received on September 1, 2012. The application gives October 1, 2012 as the date of publication. The registration specialist contacts the applicant on December 1, 2012 to confirm that the work was, in fact, **published** on October 1, 2012. If the applicant confirms that the date of publication is correct the specialist will register the claim and will add a note to the registration record indicating that there is correspondence in the file. If the applicant confirms that the work was published on a different date (such as September 15, 2012), the specialist will amend the registration record to reflect the correct publication date. In both cases, the effective date of registration will be September 1, 2012.



## 625 Effective Date of Registration

The U.S. Copyright Office must receive an acceptable application, **deposit copy**, and **filing fee** before a registration can be made. When a work is registered, the Office assigns an **effective date of registration** to the **certificate of registration**. The effective date of registration (“EDR”) is the day on which an acceptable application, complete deposit copy, and filing fee, which are later determined by the **Register of Copyrights** or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Office. **17 U.S.C. § 410(d)**. “Where the three necessary elements are received at different times the date of receipt of the last of them is controlling, regardless of when the Copyright Office acts on the claim.” **H.R. REP. NO. 94-1476, at 157 (1976)**, reprinted in 1976 U.S.C.C.A.N. 5659, 5773.

### 625.1 Minimum Requirements for an Acceptable Application

If the **applicant** has made a reasonable, good faith effort to complete the relevant fields/spaces in the application, the effective date of registration will be the date that the U.S. Copyright Office received the application, provided that the applicant satisfied the minimum requirements for an acceptable, complete **deposit copy** and paid the applicable **filing fee** as of that date.

*Examples:*

- On January 1, 2005 the Office receives an online application for an **unpublished** manuscript along with the requisite deposit copy and filing fee. The application states that the title of the work is *Sunny Days*. On February 1, 2005, the applicant notifies the Office that the title of the work should be changed to *Sunny Daze*. The work will be registered with an effective date of registration of January 1, 2005.
- On April 15, 2010, the Office receives a paper application for a photograph, along with the appropriate deposit copies and filing fee. On June 15, 2010, the **registration specialist** notifies the applicant that the title of the work does not appear on the application, the deposit copy, or elsewhere in the registration materials. On July 15, 2010, the applicant informs the specialist that the title of the work is *Image No. 9*. The specialist will add the title to the registration record and will add a note to the correspondence record indicating the source of this information. The work will be registered with an effective date of registration of April 15, 2010.
- On June 10, 2012, the Office receives an online application for a **sound recording**, along with the proper deposit copy and filing fee. The application states that the author is a citizen of Iran and that the work was first **published** in Iraq. On December 10, 2012, the registration specialist notifies the applicant that the work does not appear to be eligible for copyright protection in the United States, because the United States has not signed any copyright treaties with Iran or Iraq. On January 10, 2013 the applicant informs the specialist that the author created this sound recording at a recording studio in Syria. The specialist will add an **annotation** to the registration record, such as: “Regarding publication: applicant states the work was first fixed in Syria.” The work will be registered with an effective date of registration of June 10, 2012.

- On August 31, 2007 the Office receives an online application for a musical composition, along with the proper deposit copies and filing fee. The application names Moonshine Music as the sole **claimant**. In a letter dated September 30, 2007 the applicant informs the Office that the copyright actually belongs to Moonbounce LLC, which is a subsidiary of Moonshine Music. The specialist will amend the registration record and add a note to the correspondence record identifying the source of this information. The work will be registered with an effective date of registration of August 31, 2007.
- On June 1, 2007 the Office receives a paper application for a **choreographic work** naming Light & Lithe as the author, together with the proper deposit copies and filing fee. The claimant space has been left blank but **transfer statement** “by contract” is given in the Transfer space. On October 1, 2007 the registration specialist notifies the applicant that the name of the claimant does not appear in the application or elsewhere in the registration materials. The applicant provides the claimant’s name, No More Weight, Ltd., to the specialist in a telephone conversation on October 10, 2007. The specialist will add the claimant’s name to the registration record and will make a note in the correspondence record identifying the source of this information. The work will be registered with an effective date of registration of June 1, 2007.

## 625.2 Minimum Requirements for Acceptable Deposit Copy(ies)

To establish an effective date of registration, the U.S. Copyright Office must receive the appropriate number of **deposit copy(ies)** containing the entire **copyrightable** content of the work described in the application.

If it appears that the **applicant** failed to submit the appropriate number of copies or phonorecords, failed to submit the entire copyrightable content of the work (or appropriate identifying material, where permitted), or if the specialist is unable to access, view, or examine that content, the specialist may communicate with the applicant or may refuse registration.

If the work is approved for registration, the effective date of registration is the date that the Office received the appropriate identifying material or an appropriate number of copies or phonorecords containing the entire copyrightable content of the work in a form that can be accessed, viewed, and examined. As a general rule, the fact that the deposit copy(ies) may not satisfy the “**best edition**” requirement is irrelevant to this determination. For a discussion of the “best edition” requirements, see **Chapter 1500**, Section 1504.

### 625.2(A) Acceptable File Formats for the Deposit Copy(ies) Accompanying an Online Application

If the **applicant** uploads a **deposit copy(ies)** using any of the acceptable file formats listed on the U.S. Copyright Office’s **website**, the **effective date of registration** will be the date that the Office received the deposit copy(ies), provided that the file can be opened and provided that the applicant satisfied the minimum requirements for an acceptable application and paid the applicable **filing fee** as of that date.

### 625.2(B) Unacceptable File Formats for the Deposit Copy(ies) Accompanying an Online Application

If the **applicant** uploads the **deposit copy(ies)** in a file format that is not listed in the regulations or on the U.S. Copyright Office's **website**, the **registration specialist** may communicate with the applicant to request a **deposit** in an acceptable file format or may refuse registration.

If the specialist asks the applicant to resubmit the deposit copy(ies) in an acceptable file format, and if the work is subsequently approved for registration, the effective date of registration will be the date that the Office received a copy or phonorecord of the work in an acceptable file format that can be accessed, viewed, and examined by the specialist. **37 C.F.R. § 202.20(b)(2)(iii)(D)**.

### 625.2(C) Corrupted Deposit Copy(ies) Files Accompanying an Online Application

If the **applicant** submits the **deposit copy(ies)** in a file format that is listed on the U.S. Copyright Office's **website**, and if the **registration specialist** is unable to access, view, or examine the deposit copy(ies) because the file appears to be corrupted, the specialist will ask the applicant to submit another copy or phonorecord of the work.

If the applicant resubmits the deposit copy(ies) in one of the file formats listed on the Office's **website**, the effective date of registration generally will be based on the date that the Office received an acceptable copy, although the Office may assign a different date at its discretion (e.g., the date of the original submission).

### 625.2(D) Shipping Slips for Mailing Physical Deposit Copy(ies) to Accompany an Online Application

When submitting an online application, the **applicant** may upload the **deposit copy(ies)** through the U.S. Copyright Office's electronic registration system, provided the work is not subject to **best edition** requirements and provided that the work meets one or more of the requirements set forth in **Chapter 1500**, Section 1507.2. For a discussion of the best edition requirements, see **Chapter 1500**, Section 1504.

When required to submit physical deposit copy(ies), the applicant may submit the deposit copy(ies) by mail, by courier, or by personal delivery to the Public Information Office. When submitting the deposit copy(ies) using one of these methods, the applicant must attach a **shipping slip** to the deposit copy(ies) to ensure that they will be paired with the online application. **37 C.F.R. § 202.3(b)(2)(i)(D)**.

To create a shipping slip the applicant must click the Create Shipping Slip button at the bottom of the Case Summary screen, then click the shipping slip link that appears in the Send By Mail field. The applicant must print a copy of the shipping slip and attach it to each of the deposit copy(ies).

The effective date of registration for **claims** submitted by mail, by courier, or by personal delivery will be determined based on the date that the Office receives the deposit copy(ies) together with the corresponding shipping slip. Failure to attach the shipping slip to each deposit copy(ies) will prevent the copy(ies) from being paired with the online application and may require the applicant to resubmit the deposit copy(ies) to the Office, which in turn, will delay the effective date of registration.

For additional information concerning this procedure, see [Chapter 1500](#), Section 1508.2.

### 625.3 Minimum Requirements for an Acceptable Filing Fee

To establish an effective date of registration the U.S. Copyright Office must receive the full, applicable [filing fee](#). To determine the correct filing fee, see the [fee schedule](#) on the Office's website.

#### 625.3(A) Forms of Payments

A [filing fee](#) may be paid with a credit card, a debit card, an electronic transfer from a checking or savings account, or with a check, bank draft, or money order made payable to the [U.S. Copyright Office](#). The Office also maintains a system of [deposit accounts](#) for parties who frequently conduct business with the Office. Persons or entities that maintain a deposit account may deposit funds into the account and charge fees against that balance instead of sending a separate payment with each application or other request for services. See [37 C.F.R. § 201.6\(b\)](#). For a discussion of deposit accounts, see [Chapter 1400](#), Section 1403.5.

Checks or money orders from a foreign country must be payable in U.S. dollars, they must be redeemable through a U.S. institution, they must be imprinted with an American Banking Association routing number, and they must be redeemable for the full amount of the fee required without a service or exchange fee. [37 C.F.R. § 201.6\(a\)](#). Postal money orders and international money orders that are negotiable only at a post office are not acceptable.

The Office cannot assign an effective date of registration if the [applicant](#) submits an unacceptable form of payment, such as uncollectible payments submitted through [www.pay.gov](#), dishonored ACH fees, uncollectible checks, unsigned checks, postdated checks, mutilated checks, illegible checks, fees made payable in a foreign currency, postage stamps, or the like.

#### 625.3(B) Insufficient Funds

If the [applicant](#) fails to submit the correct [filing fee](#) or if there are insufficient funds in a [deposit account](#) when an application is received, the U.S. Copyright Office's Receipt Analysis and Control Division ("RAC") will notify the applicant or account holder in writing.

If the correct filing fee is submitted within forty-five days after the date set forth in the notice from RAC, the effective date of registration will be changed to reflect the date that the funds were received, provided that the applicant satisfied the minimum requirements for an acceptable application and [deposit copy\(ies\)](#) as of that date. If the Office does not receive a response within forty-five days after the date set forth in the notice from RAC, the file will be closed.

If an applicant submits funds or has funds in a deposit account that are sufficient to cover the filing fee for one or more, but not all, of the applications that are submitted for registration, the Office will not communicate with the applicant to determine which application should be processed first. RAC will apply the filing fees to the applications in no particular order until the funds have been exhausted and will forward those applications to the Registration Program for examination.

### 625.3(C) Special Handling Fee

The fee for processing an application on an expedited basis is separate from the **filing fee**, and the date that the **special handling** fee is received in the U.S. Copyright Office does not affect the effective date of registration. If the **applicant** submits an application together with the appropriate **deposit copy(ies)** and filing fee, and subsequently asks the Office to process that application on an expedited basis, the effective date of registration will be the date that the Office received an acceptable application, deposit copy(ies), and filing fee, rather than the date that the special handling fee was received.

For a discussion of special handling, see Section 623.

### 625.4 Minimum Requirements for Establishing an Effective Date of Registration Distinguished from the Requirements for Issuing a Certificate of Registration

The fact that an **applicant** satisfied the minimum requirements for establishing an effective date of registration does not necessarily mean that the work will be registered. The U.S. Copyright Office will not register a **claim** or issue a **certificate of registration** until the **registration specialist** has determined that the material deposited constitutes **copyrightable** subject matter and the other legal and formal requirements for registration have been met. 17 U.S.C. § 410(a).

### 625.5 Differences Between an Application and a Certificate of Registration

The date on which the U.S. Copyright Office receives an application for registration will constitute the effective date of registration only if (i) the Office subsequently determines that it has received (a) the proper **filing fee**; (b) an acceptable **deposit** (*i.e.*, one that is legally sufficient and perceptible); (c) an application that meets the legal and formal requirements of Title 17; and (d) issues a **certificate of registration**; or (ii) the Office refuses the claim and a court of competent jurisdiction later determines that the work was registrable.

The mere submission of an application to the U.S. Copyright Office does not amount to a registration. This is corroborated by the statute and the legislative history. Sections 410(a) and (b) set forth the basic duties of the **Register of Copyrights**: to issue certificates of registration after an examination of the deposit and the application to determine whether the legal and formal requirements of Title 17 have been met, or to refuse the application and notify the applicant of the reason for the refusal. 17 U.S.C. § 410(a), (b).

Section 410(c) provides for a statutory evidentiary presumption of the validity of the facts “stated in the certificate [of registration]” if the registration “is made before or within five years after publication.” *Id.* § 410(c). Whether the registration has been “made before or within five years after first publication” depends on whether a certificate of registration has been issued by the Office and the date on which the Office received all of the requisite registration materials (*i.e.*, a complete application, deposit, and filing fee). *Id.* Until the Office issues a certificate of registration, there can be no effective date of registration.

Section 410(d) directly addresses the effective date of a copyright registration. It states that “[t]he effective date of copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.” *Id.* § 410(d).

Deposit requirements and filing fees are established by regulation by the Register of Copyrights. *Id.* §§ 408, 702, 708.

While a court may later determine the copyrightability of a work that has been refused by the Office, a court cannot waive the Office's requisite registration fees, determine whether or when the application, deposit, and filing fee were received by the Office, or whether those materials were sufficient for registration purposes. A court's determination of an effective date of registration, as opposed to the Register's determination, is premised on the Office's refusal of a claim of copyright. The legislative history on [Section 410\(d\)](#) confirms this interpretation:

Where the three necessary elements are received at different times the date of receipt of the last of them is controlling, regardless of when the Copyright Office acts on the claim. The provision not only takes account of the inevitable timelag between receipt of the application and other material and the issuance of the certificate, but it also recognizes the possibility that a court might later find the Register wrong in refusing registration. *H.R. REP. NO. 94-1476 AT 157 (1976)*, reprinted in 1976 U.S.C.C.A.N. 5659, 5773.

The Senate Joint Explanatory Statement on the [Berne Convention](#) Implementation Act of 1988 stated unequivocally: "The principal change made by the amendment deals with existing section 411 of the Copyright Act, 17 U.S.C. § 411. This provision establishes the general rule that a claim of copyright in a work must be registered with the Copyright Office before any lawsuit claiming infringement of the work may be initiated. Section 411(a) contains an exception in the case of a work as to which the Copyright Office has refused to issue a certificate of registration, but the fact remains that a review by the Copyright Office of the validity of a copyright claim is a necessary precondition for enforcement of copyright protection under current law." 134 Cong. Rec. S14554 (daily ed. Oct. 5, 1988) (Joint Explanatory Statement on Amendment to S. 1301). In addition, the House Report on the Berne Convention Implementation Act of 1988 explained: "For all of these reasons, the Committee concluded that section 411(a) — and registration as a prerequisite to the filing of a lawsuit — should be retained." H.R. Rep. No. 100-609, at 42 (1988).

The Prioritizing Resources and Organization for Intellectual Property Act of 2008 also supports this conclusion. The PRO-IP Act added [Section 411\(b\)](#) to the statute, which states that "a certificate of registration satisfies the requirements of [section 411] and section 412, regardless of whether the certificate contains any inaccurate information . . ." [17 U.S.C. § 411\(b\)](#).

When read together, the statute and the legislative history clearly evince Congress's intent that the Register of Copyrights must issue a certificate of registration or refuse an application for registration prior to filing a suit for copyright infringement. [Section 411\(b\)](#) expressly states that a certificate satisfies the statutory requirement for instituting an infringement action. The Office notes that some courts allow a claim for copyright infringement to be brought upon the submission of an application alone. In the Office's view, however, filing a lawsuit based solely on the submission of an application for registration does not satisfy this statutory requirement, because an application is neither a registration nor a certificate of registration. Allowing a lawsuit to proceed based solely on an application for registration would eliminate the mediating role that Congress intended the Office to fulfill, and it would nullify the Register of Copyrights' statutory right to intervene in an infringement action where the claim has been refused. [17 U.S.C. § 411\(a\)](#).

It also should be noted that the Office provides a service for applicants to expedite the processing of [claims](#) within five business days in situations involving prospective or pending litigation. (For information concerning this procedure, see [Section 623](#).) This service is available when a claim is

submitted or after a claim has been submitted and is currently in-process. This service eliminates delay in the copyright owner's ability to file copyright infringement actions.